TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1935

No. ~~853~~ 17

MECHANICS UNIVERSAL JOINT COMPANY AND GRACE EKSTROM, ADMINISTRATRIX OF THE ESTATE OF ERIC S. EKSTROM, DECEASED, PETITIONERS,

vs.

A. B. CULHANE, RECEIVER OF THE MANUFACTURERS NATIONAL BANK AND TRUST COMPANY OF ROCKFORD, ILLINOIS, ETC.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED MARCH 24, 1936.

CERTIORARI GRANTED APRIL 27, 1936.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1935

No. 853

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1 Pleas in the District Court of the United States for the Northern District of Illinois, Western Division, begun and held at the United States Court Room, in the City of Freeport, in said District and Division, before the Honorable Charles E. Woodward, District Judge of the United States for the Northern District of Illinois on Seventeenth day of November, in the year of our Lord one thousand nine hundred and thirty-one, being one of the days of the regular October Term of said Court, begun Monday, the Nineteenth day of October, and of our Independence the 156th year. Plac

Present:

Honorable Charles E. Woodward
H. C. W. Laubenheimer, U. S. Marshal.
Charles M. Bates, Clerk.

2 IN THE DISTRICT COURT OF THE UNITED STATES,

Northern District of Illinois,

Western Division.

L. B. Achor, Receiver of The Manufacturers Nat'l. Bank and Trust Company of Rockford, Illinois,
vs.
Mechanics Universal Joint Company, a corporation, & Eric S. Ekstrom.
} No. 348 In Equity.

Be It Remembered, that the above-entitled action was commenced by the filing of the following Bill of Complaint in the above-entitled cause in the office of the Clerk of the District Court of the United States for the Northern District of Illinois, Western Division, on this the eighth day of October 1931.

3 IN THE UNITED STATES DISTRICT COURT.

* * (Caption) * *

To the Honorable Presiding Judge of Said Court in Chancery Sitting:

Your orator L. B. Achor, Receiver of The Manufacturers National Bank and Trust Company of Rockford, Illinois, plaintiff, complains of Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom, defendants, and represents to the court as follows:

1. That The Manufacturers National Bank and Trust Company of Rockford, Illinois, was on June 13, 1931 and prior thereto a national banking corporation organized and existing under the laws of the United States; that on June 16, 1931, the Comptroller of the Currency of the United States executed and delivered his certificate to the effect that said The Manufacturers National Bank and Trust Company of Rockford, Illinois was then and there insolvent and appointed L. B. Achor, Receiver of the said The Manufacturers National Bank and Trust Company of Rockford, Illinois. That the Mechanics Universal Joint Company, is a corporation duly organized and existing under and by virtue of the laws of the State of Illinois, having its principal office at Rockford

in said District. That Eric S. Ekstrom is President of the said Mechanics Universal Joint Company and resides at Rockford in said District; that each and all of said par-
4 ties are residents and citizens of said District and Division.

2. The grounds upon which the court's jurisdiction depends is the fact that the said The Manufacturers National Bank and Trust Company of Rockford, Illinois, was a national banking corporation organized under the laws of the United States and is insolvent and is in process of liquidation through the Comptroller of the Currency of the United States, represented by L. B. Achor, Receiver, appointed by said Comptroller of the Currency of the United States to wind up the affairs of the said The Manufacturers National Bank and Trust Company of Rockford, Illinois.

3. That said Eric S. Ekstrom, was on June 12, 1931, and for a long time prior to that date had been, a Director of said The Manufacturers National Bank and Trust Company of Rockford, Illinois, having been previously elected to said office, and having qualified and was acting as such Director on said June 12, 1931, and for a long time prior thereto; and said Eric S. Ekstrom continued to act as a Director of said bank until said bank suspended and failed to open its doors on the morning of June 15, 1931. That on said June 12, 1931, and for a long time prior thereto said Eric S. Ekstrom was and had been the President of the said defendant Mechanics Universal Joint Company, a corporation and had been acting as such and was in the active prosecution of his duties as President of said corporation. That on said The Manufacturers National Bank and Trust Company of Rockford, Illinois, and while he was then and there President of the said Mechanics Universal Joint Company, a corporation, attended a meeting of the Directors of said The Manufacturers National Bank and Trust Company of Rockford, Illinois, at the banking house of said banking corporation at Rock-
5 ford in said District. That at said Directors Meeting and while the said Eric S. Ekstrom was present, a National Bank Examiner, acting under and by virtue of the authority of the United States, through the Comptroller of the Currency of the United States and in the performance of his duties as a National Bank Examiner, was also then and there present, and at said meeting while said Eric S. Ekstrom was present, the affairs of said The Manufacturers National Bank and Trust Company were discussed and it was then and there stated in effect, that the affairs of said bank were in such

condition that it was likely that said bank could not continue in business and could not continue as a national bank with ability to pay its creditors, and that it was necessary that steps be taken to save said bank from collapse, and it was then and there discussed in said meeting that it was advisable to endeavor to consolidate said bank with another bank in the City of Rockford in order to prevent the open insolvency of said The Manufacturers National Bank and Trust Company of Rockford, Illinois, and that the Directors of said bank then and there passed a Resolution giving authority to said National Bank Examiner to discuss the affairs of said bank with any other bank in said City of Rockford with a view of having said other bank take over the affairs of The Manufacturers National Bank and Trust Company of Rockford, Illinois, and to receive the assets of said bank and assume its liabilities. And it was then and there stated that in the situation which then existed in Rockford and was likely to exist within the next few days it would be impossible for said bank to continue to function as a national bank unless the relief discussed was afforded said bank. That said Eric S. Ekstrom was present during all of said meeting and heard all of the said discussion above mentioned and was then and there advised and duly informed of the then situation of said The Manufacturers National Bank and Trust Company of Rockford, Illinois, and while the said Eric S. Ekstrom was then and there acting as President and Managing head of the said Mechanics Universal Joint Company, a corporation.

That said Eric S. Ekstrom, Director as aforesaid, and President as aforesaid, left said meeting at about twelve o'clock noon, on said June 12, 1931, and immediately thereafter, having the knowledge and information which he had gained at said Directors' meeting of said bank as aforesaid, caused a check of the funds of the said Mechanics Universal Joint Company, a corporation, which were then and there on deposit in said The Manufacturers National Bank and Trust Company of Rockford, Illinois, in the sum of $42,761.12, to be withdrawn from said The Manufacturers National Bank and Trust Company, by a check then and there drawn by said Mechanics Universal Joint Company, a corporation, and duly signed by the duly authorized officer of said corporation; that said check was dated June 12, 1931 and was deposited in the Third National Bank Rockford, Illinois, on said date and reached said The Manufacturers National Bank and Trust Company of Rockford, Illinois, through the clearings on June

13, 1931, which said check was then and there on said last mentioned date paid by said bank, and said funds then and there thereby completely withdrawn from said bank and thereby transferred from said The Manufacturers National Bank and Trust Company of Rockford, Illinois, to the Third National Bank, Rockford, Illinois. That said Eric S. Ekstrom, President of said corporation as aforesaid, and Director of said Bank as aforesaid caused said transfer to be made because of the information which he acquired at said Directors' Meeting.

4. That said action of said Eric S. Ekstrom, as aforesaid, in addition to the fact that it was done under information which he had acquired in a confidential relation with said The Manufacturers National Bank and Trust Company of
7 Rockford, Illinois, was made in contemplation of the insolvency of said The Manufacturers National Bank and Trust Company of Rockford, Illinois, and was made with a view to prevent the application of the assets of said The Manufacturers National Bank and Trust Company of Rockford, Illinois; in the manner prescribed by the laws of the United States with reference to National Banks and the distribution of their assets upon insolvency and with a view to the preference of one creditor, towit, the Mechanics Universal Joint Company, a corporation of which he, the said Eric S. Ekstrom was then and there President, to another, and to the other creditors of said The Manufacturers National Bank and Trust Company of Rockford, Illinois, all of which was in violation of the laws of the United States with reference to National Banks and the distribution of their assets upon insolvency.

5. That there are no other persons interested in the matters in controversy mentioned above, other than the plaintiff and the defendants.

Forasmuch Therefore, as the plaintiff is without remedy in the premises except in a court of equity he prays as follows:

First,—That the said Mechanics Universal Joint Company, a corporation, organized and existing under the laws of the State of Illinois, having its principal office at Rockford, Illinois, and the said Eric S. Ekstrom, be each made parties defendant to this bill and required to answer the same, but not under oath the answer under oath being hereby waived.

Second,—That upon a hearing of this bill, it may be found and decreed by the court that said Eric S. Ekstrom occupied a dual and confidential relation with reference to said The

Manufacturers National Bank and Trust Company of Rockford, Illinois, and the said Mechanics Universal Joint Company, a corporation, and that he used information which he gained in confidence at a meeting of the Directors of said
8 The Manufacturers National Bank and Trust Company of Rockford, Illinois, to the wrongful benefit and advantage of the said Mechanics Universal Joint Company, a corporation.

Third,—That it may be found and decreed by the court that the act of said Eric S. Ekstrom and said Mechanics Universal Joint Company, a corporation in issuing said check above mentioned, and depositing the same in the Third National Bank Rockford, Illinois, and in thereby withdrawing the funds of said Mechanics Universal Joint Company, from said The Manufacturers National Bank and Trust Company of Rockford, Illinois, was made in contemplation of the insolvency of said The Manufacturers National Bank and Trust Company of Rockford, Illinois, and made with a view to prevent the application of the assets of said bank in the manner prescribed by the laws of the United States, and with a view to the preference of one creditor to another.

Fourth,—That said defendants and each of them be ordered and directed by this court to return to the plaintiff said sum of $42,761.12, together with interest, at the rate of five percent per annum from said June 13, 1931, to the date said fund is returned to said Receiver.

Fifth,—That upon failure, if there should be any, of the said defendants to return said fund, together with interest to the said Receiver of said bank, that the said Eric S. Ekstrom be attached and imprisoned until he shall have obeyed the order of this Court.

Sixth,—That a money decree be rendered in favor of the plaintiff and against each of the defendants for the said sum of $42,761.12, with interest at the rate of five percent per annum from said June 13, 1931, to the date of said decree.

Seventh,—That the plaintiff recover of the defendants all costs of this proceeding.

9 Eighth,—That upon the filing of this bill in the office of the Clerk of said court that the subpoena in chancery be issued out of the office of the Clerk of said court, directed and returnable as required by law commanding each of the defendants to appear and answer this bill as required by law and the equity rules of this court.

L. B. Achor,
Receiver of The Manufacturers National Bank and Trust Company of Rockford, Illinois. *Plaintiff.*

State of Illinois }
Winnebago County } ss

L. B. ACHOR, being first duly sworn upon oath deposes and says that is Receiver of The Manufacturers National Bank and Trust Company of Rockford, Illinois, and plaintiff in the above entitled cause; that he has signed said bill as such Receiver and that the statements therein contained are true.

L. B. ACHOR,
Receiver of The Manufacturers National Bank and Trust Company of Rockford, Illinois.

Subscribed and sworn to before me this 7th day o
1931. red Nov. 1931.

LUETTA E.
(Seal) *Notary Public.*
ROY F. HALL,
Rockford, Illinois,
Solicitor for Plaintiff.

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10 And on, to wit, the Second day of Novembe
the Defendant by his attorneys and filed in
office of said Court at Freeport a certain Demurrer in words and figures following, to wit:

11 IN THE UNITED STATES DISTRICT COURT.
* * (Caption) * *

DEMURRER.

This defendant, by protestation, not confessing all or any of the matters and things in the said complainant's bill contained to be true in such manner and form as the same are therein set forth and alleged, does demur to the said bill and for cause of demurrer shows that the said complainant has not by his said bill made such a case as entitles him in a court of equity to any discovery from this defendant, or any relief against him as to the matters contained in the said bill, or any part of such matters, and that any discovery which can be made by this defendant touching the matters complained of in the said bill, or any of them, can not be of any avail to the said complainant for any of the purposes for which a dis-

covery is sought against this defendant by the said bill or as entitles the said complainant to any relief in this Court touching any of the matters therein complained of.

Wherefore and for divers other good causes of demurrer appearing in the said bill, this defendant does demur thereto, and he prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said bill, and he humbly prays to be hence dismissed with his reasonable costs in this behalf most wrongfully sustained.

EARLY & EARLY,
His Solicitors.

And afterwards, to wit, on the Seventeenth day of November, 1931 being one of the days of the regular October term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge appears the following entry, to wit:

IN THE UNITED STATES DISTRICT COURT.

• • (Caption) • •

ORDER.

On this day this cause coming on to be heard on motion of the plaintiff L. B. Achor, Receiver of The Manufacturers National Bank and Trust Company of Rockford, Illinois, by his attorney, to strike demurrer filed November 2nd, 1931 by Eric S. Ekstrom, by his attorneys, and for a decree pro confesso, and the Court having listened to the motion and heard arguments of counsel and being fully informed in the premises it is Orde d by the Court that the motion to strike the demurrer filed November 2nd, 1931 by Eric S. Ekstrom, by his attorneys, be and the same is hereby sustained and that decree pro confesso as to defendant Eric S. Ekstrom, be, and the same is hereby entered herein, and leave granted to defendant Eric S. Ekstrom to file answer instanter to the Bill of Complaint herein. Enter

CHARLES E. WOODWARD,
Judge.

15 And on, to wit, the Twenty-ninth day of October, 1931 Filed 193
came the Mechanics Universal Joint Company by its attorneys and filed in the Clerk's office of said Court at Freeport a certain Answer in words and figures following, to wit:

16 IN THE DISTRICT COURT OF THE UNITED STATES.

• • (Caption) • •

THE ANSWER OF MECHANICS UNIVERSAL JOINT COMPANY, A CORPORATION, ONE OF THE ABOVE NAMED DEFENDANTS, TO THE BILL OF COMPLAINT OF L. B. ACHOR, RECEIVER OF THE MANUFACTURERS NATIONAL BANK AND TRUST COMPANY, OF ROCKFORD, ILLINOIS, PLAINTIFF.

I.

This defendant admits that The Manufacturers National Bank and Trust Company, of Rockford, Illinois, was, on June 13, 1931, and prior thereto had been, a national banking corporation organized and existing under the laws of the United States; but as to whether on June 16, 1931 the Comptroller of the Currency of the United States executed and delivered his certificate to the effect that the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, was then and there insolvent, or as to whether said certificate
17 appointed L. B. Achor Receiver of said Bank, this defendant has no knowledge and therefore denies the same.

This defendant admits that the Mechanics Universal Joint Company is a corporation duly organized and existing under and by virtue of the laws of the State of Illinois, having its principal office in Rockford, in said District, and admits that Eric S. Ekstrom is President of this defendant, and resides in Rockford, in said District.

II.

Further answering, this defendant admits the grounds upon which the jurisdiction of this Court depends as stated in paragraph II of said bill of complaint, but denies that the relief asked for by said bill of complaint is of an equitable nature and denies the jurisdiction of a Court of Equity to entertain said bill.

III.

For answer unto paragraph III of said bill of complaint, this defendant states that it has no knowledge as to whether on June 15, 1931, and for a long time prior to that date, said Eric S. Ekstrom had been a director of said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, nor has it any knowledge as to whether or not he had been elected to said office; or qualified and was acting as such on June 12, 1931, and for a long time prior thereto; or as to whether said Eric S. Ekstrom continued to act as a director of said Bank until said Bank was suspended and failed to open its doors on the morning of June 15, 1931, and that it is not in a position to either admit or deny said facts, or any of them, and claims the same benefit of this Answer as if it had specifically denied said facts. However, this defendant admits that on June 12, 1931, and for a long time prior thereto, said Eric S. Ekstrom was and had been the President of this defendant corporation and had been acting as such and was in the active prosecution of his duties as President of this corporation.

Further answering said paragraph III of said bill of complaint, this defendant says that it has no knowledge, but believes it to be true, that on June 12, 1931, the said Eric S. Ekstrom attended a meeting of the directors of said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, at the banking house of said banking corporation, at Rockford, Illinois, in said District, but as to whether or not said Eric S. Ekstrom attended as a director of The Manufacturers National Bank and Trust Company, of Rockford, Illinois, this defendant has no knowledge and therefore claims the same benefit of this Answer as if it had expressly denied the same; that this defendant has no knowledge and cannot either admit or deny whether the discussions, matters and things charged in said paragraph III of said bill of complaint to have occurred at said meeting did in fact take place and occur as charged in said bill of complaint, and therefore claims the same benefit of this Answer as if it had specifically denied each and every of such discussions, matters, things and occurrences at said meeting; but this defendant expressly denies that said Eric S. Ekstrom heard all of the said discussions mentioned in said paragraph III of said bill of complaint; and denies that he was then and there advised and duly informed of

the then situation of the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, as is charged in paragraph III of said bill.

Further answering said paragraph III of said bill of complaint, this defendant admits that on June 12, 1931, this defendant did cause a check on the funds of this defendant which were then and there on deposit in the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, in the sum of Forty-two Thousand Seven Hundred Sixty-one Dollars and Twelve Cents ($42,761.12), and that it thereafter, on the thirteenth day of June, 1931, transferred said fund of Forty-two Thousand Seven Hundred Sixty-one Dollars and Twelve Cents ($42,761.12), being a portion of its deposit on said day of, to wit, Sixty-three Thousand Two Hundred Twenty-four Dollars and Thirty Cents ($63,224.30) in said Bank, to the Third National Bank, of Rockford Illinois; but this defendant avers that said fund was transferred in the usual course of business of this defendant and in line with its regular and accustomed practice in the City of Rockford, and denies that said transfer by means of said check was made because of or as the result of the knowledge and information which the said Eric S. Ekstrom had gained at said directors' meeting of said Bank, if he gained any information at said meeting, and denies that said check was drawn by this defendant with the knowledge or information that said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, was at said time insolvent,
20-21 or that it contemplated insolvency; but this defendant admits that on the thirteenth day of June, 1931, said check was paid by said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, and admits that the funds then and there represented by said check were completely withdrawn from said Bank and thereby transferred from said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, to the Third National Bank, of Rockford, Illinois, but expressly denies that said Eric S. Ekstrom caused said transfer to be made because of the information which he acquired at said directors' meeting, if he did acquire any information at said meeting. And this defendant states that the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, had not, prior to the time said check was drawn or presented and paid by said Bank, committed any act of insolvency; that said Bank had been continuously open for more than six months prior to June 13, 1931, and had been continuously

open on banking days for said period, and thereby held itself out as a solvent bank and authorized to receive deposits therein; that so far as this defendant is advised there had been no material change in the financial condition of said Bank during the period of, to wit, six months prior to June 13, 1931; that nothing had occurred in the affairs of said Bank which rendered its financial condition any different on the thirteenth day of June, 1931 from what it had been
22 for several months previous to said date; that said sum of Forty-two Thousand Seven Hundred Sixty-one Dollars and Twelve Cents ($42,761.12) so withdrawn by this defendant, by means of said check, from its deposit with said Bank, represented sums that had been deposited by this defendant with said bank at different times from May 1, 1931 to June 6, 1931, and consisted in a very large part of deposits that were made by this defendant with said Bank on June 6, 1931; that all of the deposits made by this defendant with said Bank during the months of May and June, 1931, were made by this defendant at times when said Bank was open for banking business and receiving deposits from its customers and the public on all banking days; and that the fact that said Bank was kept open for business and receiving deposits on all banking days during said period amounted to a representation on the part of said Bank, and the officers thereof, that said Bank was a solvent, going institution, and a Bank which could lawfully receive deposits from its customers; that during the months of May and June, 1931, and at the time when this defendant made each and every of the deposits aforesaid, this defendant had no knowledge or information or suspicion that said Bank was not a solvent institution and a safe place in which to deposit money; and that in making said deposits it acted upon the representations so made by the said Bank and its officers that said Bank was a solvent banking institution. And this defendant avers that if said Bank was insolvent, as alleged in said bill of complaint, on the thirteenth day of June, A. D.
23 1931, it had been insolvent during the whole of the months of May, 1931 and June, 1931, and for many months prior thereto, and that the receipt of said deposits by said Bank, being then and there insolvent, was a fraud on this defendant, and that because of said fraud the title to said deposits so received continued to remain in this defendant after the deposits were so made in said Bank; and that this defendant had the right to withdraw all or any portion of its deposits which it had been induced to make

in said Bank by the fraudulent representations made by said Bank and its officers in keeping said Bank open for the receipt of deposits, and thereby representing that it was solvent at the time said deposits were so made; and that the withdrawal of said sum of Forty-two Thousand Seven Hundred Sixty-one Dollars and Twelve Cents ($42,761.12) on the thirteenth day of June, 1931, by this defendant, under the circumstances aforesaid, was a lawful withdrawal on the part of this defendant and was not in violation of law, nor was it such a withdrawal as, under the laws of Congress, was null and void.

IV.

Answering paragraph IV of said bill of complaint, this defendant denies that any action of Eric S. Ekstrom in the premises was done under information which he had acquired in a confidential relation with said The Manufacturers National Bank and Trust Company, of Rockford, Illinois,
24 and denies that said withdrawal was made in contemplation of the insolvency of the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, and denies that it was made with a view to prevent the application of the assets of the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, in the matter prescribed by the laws of the United States with reference to national banks and the distribution of their assets upon insolvency; and avers that the whole of its balance on deposit in said bank on, to wit, the thirteenth day of June, 1931, had been deposited in said bank by this defendant, relying upon the representations so made by said Bank and its officers that said Bank was solvent and that said balance was therefore a trust fund, held by said Bank for this defendant as beneficiary, and that said fund was not a part of the assets of said Bank, distributable to its general creditors on insolvency; and denies that said withdrawal was made with a view to the preference of one creditor, to wit, this defendant, to another, and to the other creditors of the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois; but on the contrary avers that said withdrawal was made in the usual course of business of this defendant and not for any unlawful purpose or with any unlawful intent whatever.

V.

This defendant admits that no other persons are interested in the matters in controversy mentioned in said bill of complaint other than the complainant and the defendants, but denies that the defendant, Eric S. Ekstrom is interested in any of said matters in controversy.

25 Counterclaim.

And the Mechanics Universal Joint Company, a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its principal office and place of business in Rockford, in the State of Illinois, and in this District, by way of a cross bill herein against the plaintiff above mentioned, and also by way of counter claim and further answer, avers as follows:

I.

That continuously from the first day of January, A. D. 1931, down to and including the thirteenth day of June, A. D. 1931, The Manufacturers National Bank and Trust Company, of Rockford, Illinois, was a national banking corporation organized and existing under and by virtue of the laws of the United States, and that during said period it maintained a banking house in the City of Rockford, In the State of Illinois, in said District, and in said banking house conducted a banking business and during the whole of said period kept its bank open continuously during banking days and banking hours and by such action represented to the public that it was a solvent, going banking institution and a safe place in which to deposit money; that during the whole of said period said Bank was, in fact, insolvent.

II.

That the Mechanics Universal Joint Company, a corporation, as aforesaid, relying upon the representations so made by said The Manufacturers National Bank and Trust
26 Company, of Rockford, Illinois, in keeping its Bank open and doing business and relying upon the representation thereby made that said Bank was solvent, and then and there believing that said bank was solvent, made deposits of its

money and of its checks and bills of exchange in said Bank during said months of May and June, 1931, as follows:

Date	Deposits
May 6th	$ 167.19
May 9th	28,021.33
May 15th	24,911.68
May 18th	25,000.00
May 23rd	534.35
May 25th	4,163.00
May 28th	2,928.61
May 29th	10,149.61
May 30th	284.44
June 1st	10,095.28
June 6th	44,617.21

And all of which said deposits were received by said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, as deposits of cash, and the account of said Mechanics Universal Joint Company was credited on the books of said Bank to the credit of said Mechanics Universal Joint Company; all of which said deposits so solicited and received by said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, under the circumstances aforesaid, and when said Bank was insolvent, constituted a fraud upon said Mechanics Universal Joint Company, said corporation, and that by reason of said fraud so perpetrated by said The Manufacturers National Bank and Trust Compny, of Rockford, Illinois, upon said Mechanics Universal Joint Company, the title to said sums of money so represented by said deposits never passed to said The Manufacturers National Bank and Trust Company, of
27 Rockford, Illinois, but in law remained in the Mechanics Universal Joint Company, said corporation; and still remains in said Mechanics Universal Joint Company, and the same was received by said L. B. Achor, said Receiver of Bank, as a trust fund which in equity belongs to and is the property of this defendant; and that there remained in said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, on the fifteenth day of June, 1931, at the time the said Receiver was appointed, credited to the account of this defendant, the sum of Twenty Thousand Thirty-four Dollars and Twelve Cents ($20,034.12), all of which had been deposited when said Bank was insolvent and which, in equity and good conscience, by reason of the circumstances under which said deposits were made, belonge to and is the property of this defendant and should be paid to this de-

fendant before the assets of said Bank in the hands of said Receiver are distributed to the general creditors of said Bank.

Wherefore the Mechanics Universal Joint Company, aforesaid, prays that an accounting may be taken in this behalf and that in and by such accounting it be determined what funds and moneys and property of the Mechanics Universa Joint Company were deposited by said Mechanics Universal Joint Company in the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, at the time or times when said Bank was insolvent and when said Bank was holding itself out to the public as a solvent, going institution by keeping its banking house open for the conduct of a banking business and for the reception of deposits, and
28 that a decree may be entered herein against the said plaintiff, L. B. Achor, Receiver of The Manufacturers National Bank and Trust Company, of Rockford, Illinois, ordering and directing him, out of the funds and assets in his hands as such Receiver, to pay to the Mechanics Universal Joint Company such sum of Twenty Thousand Thirty-four Dollars and Twelve Cents ($20,034.12), together with legal interest thereon from the date of deposit of the same, before making distribution of any of the assets of said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, to the general creditors thereof; and that this defendant may have such other and further relief in the premises as equity may require and to your Honor shall seem meet.

Wherefore this defendant prays that the said bill of complaint be dismissed as against it, and that it be awarded such relief as it may be entitled to under and by virtue of said cross bill and counterclaim.

MECHANICS UNIVERSAL JOINT COMPANY,
By W. E. GUSTAFSON,
Its Assistant Secretary.

G. A. SHALLBERG,
S. R. KENWORTHY,
Moline, Ill.
Attorneys for said Defendant.
SHELBY L. LARGE,
GUY B. RENO,
Rockford, Ill.

29 And on, to wit, the Seventeenth day of November, 1931 came the defendant, Eric S. Ekstrom by his attorneys and filed in the Clerk's office of said Court at Freeport a certain Separate answer in words and figures following, to wit: Filed N 1931.

30 IN THE UNITED STATES DISTRICT COURT.

* * (Caption) * *

SEPARATE ANSWER OF ERIC S. EKSTROM ONE OF THE DEFENDANTS HEREIN, TO THE BILL OF COMPLAINT HEREIN.

1.

And this defendant, Eric S. Ekstrom, answering the bill of complaint of L. B. Achor, Receiver of The Manufacturing National Bank and Trust Company of Rockford, Illinois, admits that The Manufacturers National Bank and Trust Company of Rockford, Illinois, was on June 13, 1931, and prior thereto had been a national banking corporation organized and existing under the laws of the United States; that on June 16, 1931, the Comptroller of the Currency of the United States executed and delivered his certificate appointing L. B. Achor, Receiver of said The Manufacturers National Bank and Trust Company of Rockford, Illinois, but in that connection this defendant denies that said bank was then insolvent; admits that the Mechanic's Universal Joint Company, one of the defendants in this cause, is a corporation duly organized and existing under and by virtue of the laws of the State of Illinois, having its principal office at Rockford in said District; that this defendant is President of the said Mechanics Universal Joint Company and resides at Rockford, Illinois in said District; that each and all of said parties are residents and citizens of said District in said Division thereof.

31

2.

Further answering this defendant admits only this Court's jurisdiction of the subject matter herein, as alleged in Paragraph 2 of the bill of complaint herein; but this defendant denies that June 16, 1931, or at any time prior thereto, said bank was at any time insolvent and denies the jurisdiction of this Court as a Court of Equity to entertain this bill of complaint against this defendant personally or joined with

the other defendant herein, Mechanics Universal Joint Company, a corporation.

3.

This defendant answering paragraph 3 of said bill admits that on June 12, 1931, and for a long time prior thereto, he was a Director of said bank and also, President of said Mechanics Universal Joint Company, but denies that he was in the active prosecution of his duties as President of said corporation, but states the fact to be that said corporation was a subsidiary of and owned and controlled by The Borg-Warner Corporation, a foreign corporation licensed to do business in Illinois; admits that he attended a Directors' 32 Meeting of said bank on June 12, 1931, at which a national bank examiner was present and presumably acting under and by virtue of the authority of the United States; denies that it was then and there stated in effect that the affairs of said bank were in such condition that it was likely, that said bank could not continue in business and could not continue as a national bank with ability to pay its creditors and that it was necessary that steps be taken to save said bank from collapse; admits that it was then and there discussed that it was advisable to endeavor to consolidate said bank with one or more other national banks in the City of Rockford, in order to prevent the open insolvency of said bank, but states the fact to be that a contemplated merger of two other national banks in Rockford was discussed; that this defendant stated at said meeting and stated to L. B. Achor, the Receiver herein, who was then Vice-President of this bank and had been for a number of months last past, that this bank was solvent and asked him, said Achor, who had previously been a national bank examiner: "Why do we have to merge"; and that said Achor said in reply: "We dont," and further, "Sure we are solvent".

Further answering this defendant admits that before said meeting broke up at noon, said Directors passed a Resolution giving authority to said examiner to discuss the affairs of this bank with any other bank in said City of Rockford with a view towards consolidating or merger; that said Resolution was passed because said examiner insisted that due to the above contemplated merger of said other banks, there might be a run on all the Rockford banks and if so, this bank as merged would be further able to stand said run; but denies that it was then and there stated that in the situa-

tion which then existed in Rockford and was likely to exist within the next few days, that it would be impossible for said bank to continue to function as a national bank unless the relief discussed was afforded said bank; and denies that
33 this defendant at said meeting heard all of said discussion that took place at said meeting, as alleged in the bill of complaint herein, in said paragraph 3, either personally or while acting as President of said Mechanics Universal Joint Company.

Further answering this defendant stated that after said Resolution was passed, a Committee was appointed by said Directors to meet with some other bank in reference to a possible merger and to go over the situation and work out plans; that in the meantime, said The Manufacturers National Bank and Trust Company of Rockford, Illinois, continued to operate as usual as a bank; that said Committee met late the next day, June 13, 1931, and discussed a possible merger with The Third National Bank of Rockford, Illinois; that nothing definite could be accomplished on said June 13, 1931 and said meeting was adjourned to Sunday, June 14, 1931; that finally a proposition was submitted by said Third National Bank, which was totally inacceptable to said Committee and Directors of said Manufacturers National Bank; that thereupon, said Directors of said Manufacturers National Bank called another meeting on said June 14, 1931, at which was present, a national bank examiner, who then and there notified said Directors that since they had not effected a merger or consolidated, that they should not open and operate said bank on the coming Monday morning, June 15, 1931, or at any other time; that said Directors remonstrated violently, stating and insisting that said Manufacturers National Bank was solvent, should remain open and function as a separate bank, or might eventually consolidate and that in any event, all of its depositors and creditors could and would be paid in full in the usual course of business; that in spite of said remonstrance, said examiner finally stated that if said
34 Directors opened said bank on said Monday morning, he would hold each and every one civilly and criminally liable for any deposit accepted on Monday or any day thereafter, for in his opinion, said bank was insolvent.

Further answering this defendant states that until late on said Sunday night, June 14, 1931, he did not know that said bank would suspend its operations and be closed on said Monday morning, June 15, 1931, or at any other time or that it was contemplated that said bank would suspend and be

closed on said date or at any other time; that until said meeting on said June 14, 1931, and conference with said bank examiner, this defendant understood and believed that said bank would continue to remain open and function as a bank or function as a merged bank in the future and that in either event, all of its depositors and creditors would be paid on demand in full.

Further, answering, this defendant deniew that he left said meeting of June 12, 1931, at about 12 o'clock noon and immediately thereafter, upon the knowledge and information which he had gained at said meeting, caused a check on the funds of said Mechanics Universal Joint Company in the sum of $42,761.12 to be withdrawn from said bank by a check, but in this connection, this defendant admits that he left said meeting at about 12 o'clock on said June 12, 1931, and in the usual course of business caused said check of $42,761.12 to be drawn and said money deposited in said Third National Bank; that when said check was drawn, there remained a balance on hand in said Manufacturers National Bank on said June 15, 1931 and subsequent thereto of $20,034.12 belonging to said Mechanics Universal Joint Company; that said Joint Company at said time and for a long time prior thereto had large sums of money on deposit in the Rockford National Bank, Security National Bank and Third National Bank of Rockford, in addition to said Manufacturers National Bank; that it was the policy of said Borg-Warner Corporation to keep the money of said Joint Company more or less equally distributed among all of said four above national banks; that prior to said June 12, 1931, there was on deposit in said Third National Bank, a balance of $3,638.71 until said check of $42,761.12 was therein deposited; that prior to said June 12, 1931, there was on deposit in the Rockford National Bank, a balance of $10,834.71; that prior to said June 12, 1931, there was on deposit in the Security National Bank, the sum of $100,033.55; and that on said June 12, 1931, said Joint Company caused a check of $35,000.00 to be drawn on said Security National Bank account to be deposited in said Rockford National Bank to more or less equalize deposits and caused other checks to be drawn on said Security National Bank, bringing the balance down to $50,400.55 on said June 12, 1931.

Further answering, this defendant states that said check for $42,761.12 was withdrawn in the usual course of business; that said check was deposited in the United States mail at

Rockford in the afternoon of June 12, 1931, and received at said Third National Bank on the morning of said June 13, 1931 and duly cleared said morning, and that, if this defendant had had any idea that said Manufacturers National Bank was insolvent and about to be closed, he would have caused said check to have been delivered in person and deposited to said Third National Bank before said bank closed on said June 12, 1931, at its usual hour of 3:00 P. M.

Further answering, this defendant states that on said Jun 12th and subsequent thereto until said Manufacturers National Bank closed, he had on deposi personally in said bank, a large checking accoun and savings account, which he made no effort to transfer at that time or any other
36 time, believing that said bank was solvent and was not going to close, as alleged in the bill of complaint herein.

4.

This defendant answering paragraph 4 of said bill denies that he transferred or caused to be transferred, said sum of $42,651.12 under information which he had acquired in a confidential relation with said Manufacturers National Bank and denies that it was made in contemplation of insolvency of said bank and denies that it was made with a view to prevent the application of the assets of said bank in the manner prescribed by the laws of the United States with reference to national banks and the distribution of their assets upon insolvency and with a view to the preference of said Mechanics Universal Joint Company and to the other creditors of said bank, and denies that said transfer of said funds was made in violation of the laws of the United State with reference to national banks and the distribution of their assets upon insolvency. This defendant alleges and states the fact to be that said Manufacturers National Bank at the time of said transfer on said June 12, 1931, was a going business or concern, was carrying on its business as usual, had committed no act of insolvency and that a present suspension of business was then not contemplated; that this defendant caused said money to be drawn out in good faith and without intent to secure a preference for said Joint Company and without intent to secure payment to said Joint Company to the exclusion of other crediors.

5.

Further answering this defendant admits that no other persons are interested in the matters in controversy, mentioned in the bill of complaint herein, other than the plaintiff and said defendants, but this defendant denies that
37 he is interested in any of said matters and avers that he is improperly enjoined as a party defendant herein.

6.

Further answering this defendant denies that the plaintiff is entitled to the relief prayed for in said bill or any relief whatsoever.

Further answering, this defendant moves the Court to dismiss the bill of complaint herein as to him for the following reasons and points of law arising and appearing upon the face of said bill, to-wit:

There is an improper joinder of defendants in this cause.

The bill on its face is insufficient to constitute a valid cause of action in equity against this defendant. Said bill on its face does not allege or show that said Manufacturers National Bank and Trust Company had committed any act of insolvency on or prior to said June 12, 1931 or contemplated the commission of any act of insolvency.

Said bill on its face does not show that a present suspension of business was contemplated on said June 12, 1931.

Said bill on its face shows that said bank was a going concern on said June 12, 1931, and was carrying on its business as usual and had not committed any act of insolvency.

The allegations set up in said bill do not purport to show the unlawful payment of said sum of $42,761.12.

The allegations in said bill do not purport to show that this defendant personally did anything in connection with the withdrawal of said sum of money which it was not his right to do in the performance of his duties as President of
38 said Mechanics Universal Joint Company.

Wherefore, this defendant prays that said bill of complaint be dismissed as against him.

ERIC S. EKSTROM,
By JOHN EARLY.

EARLY & EARLY,
Solicitors for said Defendant.
By JOHN EARLY.

39 And on, to wit, the Fifteenth day of February, 1932 came the Mechanics Universal Joint Co. by its attorneys and filed in the Clerk's office of said Court at Freeport a certain Amended Counterclaim in words and figures following, to wit: Filed F... 1932.

40 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption) * *

AMENDED COUNTERCLAIM OF THE MECHANICS UNIVERSAL JOINT COMPANY.

Now Comes Mechanics Universal Joint Co., a corporation, one of the defendants herein, and, pursuant to leave of Court first had obtained, files this, its amended counterclaim to the claim of the plaintiff filed in this cause:

Amended Counterclaim.

And the Mechanics Universal Joint Company, a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its principal office and place of business in Rockford, in the State of Illinois, and in this District, by way of a cross-bill herein against the plaintiff above mentioned, and also by way of counterclaim and further answer, avert as follows:

I.

That continuously from the first day of January 1931, down to and including the thirteenth day of June, The Manufacturers National Bank and Trust Company, of Rock-
41 ford, Ill. was a national banking corporation organized and existing under and by virtue of the laws of the United States, and that during said period it maintained a banking house in the city of Rockford, in the state of Illinois, in said District, and in said banking house conducted a banking business and during the whole of said period kept its bank open continuously during banking days and banking hours and by such action represented to the public that it was a solvent, going banking institution and a safe place in which to deposit money; that during the whole of said period said bank was, in fact, insolvent.

II.

That the Mechanics Universal Joint Company, a corporation, as aforesaid, relying upon the representations so made by the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, in keeping its Bank open and doing business and relying upon the representation thereby made that said Bank was solvent and then and there believing that said bank was solvent, made deposits of its money and of its checks and bill of exchange in said Bank during said months of May and June, 1931, as follows;

Date	Deposits
May 6th	$ 167.19
May 9th	28,021.33
May 15th	24,911.68
May 18th	25,000.00
May 23rd	534.35
May 25th	4,163.00
May 28th	2,928.61
May 29th	10,149.61
May 30th	284.44
June 1st	10,095.28
June 6th	44,617.21

And all of which said deposits were received by the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, as deposits of cash and at a time when it was knowingly insolvent, and the account of said Mechanics Universal Joint Company was credited on the books of said Bank to the credit of said Mechanics Universal Joint Company; all of which said deposits so solicited and received by said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, under the circumstances aforesaid, and when said Bank was knowingly insolvent, constituted a fraud upon said Mechanics Universal Joint Company, said corporation, and that by reason of said fraud so perpetrated by said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, upon said Mechanics Universal Joint Company, the title to said sums of money so represented by said deposits never passed to said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, but in law remained in the Mechanics Universal Joint Company, and the same was received by said L. B. Achor, said Receiver of said Bank, as a trust fund which in equity belongs to, and is the property of, this defendant; and that there re-

mained in said The Manufacturers National Bank and Trust Company of Rockford, Illinois, on the fifteenth day of June, 1931, at the time the said Receiver was appointed, credited to the account of this defendant, the sum of Twenty Thousand, thirty-four dollars and twelve cents ($20,034.12), all of which had been deposited when said Bank was knowingly insolvent and which, in equity and good conscience, by reason of the circumstances under which said deposits were made, belongs to, and is the property of, this defendant and should be paid to this defendant before the assets of said Bank in the hands of said Receiver are distributed to the general creditors of said Bank.

III.

That at the time of the closing of said bank and at the
43 time the assets therefor were received by the Receiver herein, there was as assets of said Bank so received by said Receiver the sum of towit: Four hundred thousand dollars ($400,000.00) in cash, which said cash included the said sum of Twenty thousand, thirty-four dollars and twelve cents ($20,034.12) so deposited by said defendant under the circumstances in this counterclaim hereinabove enumerated.

Wherefore, the Mechanics Universal Joint Company aforesaid, prays that an accounting may be taken in this behalf and that in and by such accounting it be determined what funds and moneys and property of the Mechanics Universal Joint Company were deposited by said Mechanics Universal Joint Company in the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, at the time or times when said Bank was knowingly insolvent and when said Bank was holding itself out to the public as a solvent, going institution by keeping its banking house open for the conduct of a banking business and for the reception of deposits, and that a decree may be entered herein against the said plaintiff, L. B. Achor, Receiver of The Manufacturers National Bank and Trust Company, of Rockford, Illinois, ordering and directing him, out of the funds and assets in his hands and such Receiver, to pay to the Mechanics Universal Joint Company such sum of Twenty thousand, thirty-four dollars and twelve cents ($20,034.12), together with legal interest thereon from the date of deposit of the same, before making distribution of any of the assets of the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, to the general creditors thereof; and that this defendant may have such

other and further relief in the premises as equity may require and to your Honor shall seem meet.

44 Wherefore, this defendant prays that the said bill of complaint be dismissed as against it, and that it be awarded such relief as it may be entitled to under and by virtue of said cross bill and counterclaim.

MECHANICS UNIVERSAL JOINT COMPANY,
By SHELBY L. LARGE,
Its Attorney.

LARGE & RENO,
KENWORTHY, SHALLBERG & HARPER,
Moline, Ill.,
Attorneys for Said Defendant.

45 And afterwards, to wit, on the Nineteenth day of April 1930 being one of the days of the regular April term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward District Judge appears the following entry, to wit:

46 IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption) * *

ORDER.

On this day this cause coming on to be heard on motion of the plaintiff by his attorney that the said cause be set for trial on a day certain, and both sides of the case being present by counsel, and the Court having heard the motion and arguments of counsel, It Is Ordered by the Court that this cause be, and it is hereby set down for hearing on the 25th day of April A. D. 1933. Enter.

CHARLES E. WOODWARD,
Judge.

65 IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption) * *

CONDENSED NARRATIVE STATEMENT OF EVIDENCE.

Loged in the Office of the Clerk of this Court on September 18, 1934.

CHARLES M. BATES,
Clerk.

66-68 • • (Index) • •

69 CONDENSED STATEMENT OF EVIDENCE.

ERIC S. EKSTROM, a witness for the plaintiff, in answer to interrogatories propounded to him by Mr. Roy F. Hall, testified:

My name is Eric S. Ekstrom. I reside in Rockford, Illinois and am President of the Mechanics Universal Joint Company, and several other companies. Have been president of the Mechanics Universal Joint Company since 1916 although that was not the name of the Company at that time. I was acting as president of Mechanics Universal Joint Company on the 12th day of June, 1931 and on that date I was also a Director of the Manufacturers National Bank and Trust Company, of Rockford, Illinois. Had been director of said Bank for approximately 3 or 4 years and for something over a year or two had been a member of the loan committee of the Board of Directors of said Bank. As president of the Mechanics Universal Joint Company I performed the duties usually pertaining to presidents of a corporation. The office of the Manufacturers National Bank and Trust Company was about
70 a mile and a half away from the office of the Mechanics Universal Joint Company. The Mechanics Universal Joint Company engaged in the manufacture of automobile parts.

I was also president of the Rockford Drop Forge Company and also of Forgings and Stampings, Inc. Their places of business were in Rockford and at this time they had bank accounts in the Manufacturers National Bank & Trust Company. I was acting as director of the Manufacturers National Bank & Trust Company on January 13, 1931 and at a meeting held on that day I was made chairman of the meeting of directors and I acted as such. At that meeting a loan committee was appointed by the chairman of the Board of Directors; not by me.

I know of a Rolling Green project. This was a real estate venture where land was purchased and divided into town lots and a subdivision platted and improvements were made. I was one of the partners in that project. Mr. Hugo Olson, also a director and Vice President of the Manufacturers National Bank & Trust Company, and Mr. A. R. Floberg were other partners in the Rolling Green project. The Rolling Green borrowed $30,000 from the Manufacturers National

Bank & Trust Company. I can't recall whether that was the total of their borrowings or not but that has not been paid.

Exhibit 22 which you hand to me is a report which was presented to a directors' meeting of the bank on January 13, 1931. Exhibit 22 is a copy of the bank examiner's report which was forwarded to the bank by the Comptroller of the Currency and covers an examination of the bank up to December 1, 1930. I was familiar with the contents of this report. There came with this report a letter from the
71 Comptroller of the Currency dated January 8, 1931. I saw that letter at that time. There is a summary at the close of this report which states that of the bank loans and discounts there was $1,014,167.09 of slow assets. I understood that was the amount which the Department considered slow. I also understood that the Department estimated that there were doubtful assets of the bank and of the loans and discounts of the bank of $228,173.34, and I understood from this report that the Department estimated that there were slow loans of $138,789.96 since the last examination. A letter was written and shown to every director in answer to the Comptroller's letter. I think likely I signed this letter as a director of the bank.

On February 24, 1931, I was present at a directors' meeting at that bank. A carbon copy of a letter addressed to the Comptroller of the Currency, known in this Record as Plaintiff's Exhibit 23, is a copy of the letter that was discussed at that meeting and forwarded to the Comptroller of the Currency, and signed by me. I knew at that time that the ordinary practice of the Department was to examine National banks once every six months and I also knew that the Manufacturers National Bank was on what they call the special list, for special examinations every ninety days. And our bank had been requested by the Comptroller to report to him by letter every thirty or sixty days, I don't recall which. Any of these letters that were presented to me, I signed. I understood that the bank was placed on the special list because some of the items were slow and some doubtful. It was my opinion that the Department requested the letter from the Directors because they wanted the Directors to be familiar with the situation.

72 I was not one of the incorporators of the Winnebago Securities Corporation. I know of that company. I heard of it in the bank examiner's office in Chicago some time in November or December, 1930. I understood at that time that there were some assets in the bank totaling about

$400,000.00 that the Comptroller refused to allow the Bank to carry even as doubtful assets. And I knew the Winnebago Securities Corporation was incorporated for the purpose of getting from the directors certain sums of money to be paid into the bank and to give its note for other sums to take out the notes that the Comptroller refused to allow the bank to carry any longer as assets of the Bank. As a director I contributed to the Winnebago Securities Corporation five or six thousand dollars. Don't recall the exact amount. I knew that money was to be used to take up these assets that the Comptroller would not allow the bank to carry as assets. It was my understanding when I was in the bank examiner's office in Chicago that there was to be paid in $150,000.00 in cash. I understood that the Thompson family were to pay $50,000 in cash. If they put in a note at that time I did not know it. It is my understanding that the Winnebago Securities Corporation was to put its notes in the bank and secure these notes by collateral consisting of notes that the Comptroller required to be taken out of the Bank. I did not ascertain whether any of that collateral had been paid by the bank up to the time of its suspension. So far as I know the Winnebago Securities Corporation does not own or possess any property other than the notes that they got from the Manufacturers National Bank. When I paid five or six thousand dollars to the Winnebago Securities Corporation, I have no recollection whether I got any stock or other evidence of payment. There were other directors present in the office
73 of the Chief Examiner in Chicago when I was there in December. As many as I can recall there was Oscar Milburn, Hugo Olson, A. R. Floberg; I am not positive but I think H. A. Taylor and others who were not directors were Ralph Thompson, Norman F. Thompson, Jr. (the latter two were the sons of Norman F. Thompson, Sr. who had been a director and stockholder of the bank for many years and for many years its president). A. R. Floberg at that time was president of the bank and Hugo Olson was Vice President. The only information I had as to whether or not any of the notes which the Winnebago Securities Company had received from the bank and had pledged to the bank as collateral and had been paid was conversations which I had with Mr. Achor or Mr. Floberg or any one in the bank—just casual conversations as to just how those collateral notes were being paid. Along in February, 1931, Mr. Achor was employed by the bank and a part of his business was to try and collect some

of these Winnebago Securities items. We requested a recommendation from the Comptroller of the Currency and he recommended Mr. Achor to us. Achor was employed by the directors of the bank and had nothing to do with the Comptroller of the Currency or the Examiner and was to perform the usual duties of an officer of the Manufacturers National Bank. He had no stock that I know of. He was made Vice President. It is not a fact that we employed him for the purpose of attempting to realize on doubtful assets. I don't know whether he spent most of his time at that or not. In a general way he reported to the Board of Directors with reference to activities of his in attempting to collect doubtful assets. After Mr. Achor was employed and before the suspension of the bank, he talked to me about payment of my obligations
74 and other officers did also. I can't recall whether he talked to me once or more times. At the time the bank examiner made the examination of December 1, 1930, it was customary for him before he left Rockford to call the Board of Directors of the Bank together. I can't recall whether I attended that meeting or not. I remember a Mr. French who made that examination called the directors together and discussed with them the loans he listed as slow and doubtful. He might have said that those were so slow and doubtful that they must be taken care of by the bank immediately. I don't recall the amount that he stated at the time. Whatever is shown in the report I would be willing to take as the amount that the examiner thought was slow and doubtful.

The next examination of the bank was on or about April 27, 1931, and that was conducted by Mr. Baty. A copy of his report to the Comptroller was sent back to the Bank and I saw it and I think I saw the letter of the Comptroller that came with it. Exhibit 24 which you hand me is the letter from the Comptroller accompanying that report and Exhibit 25 is the copy of the report sent to the bank by the Comptroller. The letter is dated May 29, 1931 and consists of two pages. I could not say I saw this report. The letter was probably received about the first day of June and I do not remember that we had a June meeting of the Board of Directors. I believe I saw the letter. I don't recall whether the report was examined by the Directors. Apparently by this report the Department claims that there was $1,112,341.14 of slow paper among the loans and discounts of the bank. I do not know whether I saw that report prior to the closing of the bank or not. The letter which you hand me written to the Comptroller of the

Currency is dated June 9, 1931. I cannot say definitely
75 whether I, as a director, signed this letter or not because I attended a funeral in St. Louis, Missouri, on June 10, and I left Rockford early on June 9 and if this letter had been brought to me on the morning of June 9, I would have signed it but I do not now recall having signed or read this letter. I do know that within about thirty days of an examination there was usually sent to the bank a copy of the examiner's report; and that these reports were required to be kept at the bank and on file in the bank. Some time between May 29 and June 9, I recall that the Comptroller was claiming that there was approximately $226,765.38 worth of doubtful paper in the bank.

Q. And do you know that the Comptroller was claiming at that time that the slow assets of the bank were $1,145,201.15, or substantially that?

Mr. Kenworthy: I desire to interpose an objection to all the questions that call for the knowledge of this witness as to the claims of the Comptroller as to the character of the assets.

The Court: Overruled.

Mr. Kenworthy: Could that objection be noted without being specific as to each question concerning that subject?

The Court: The record may show that the objection stands to each of the questions of the witness concerning the claims of the Auditor as to the valuation or character of the assets. Let the ruling show that the objection is overruled as to each question.

Defendants except.

A. If I had the opportunity of reading that report I would know the Comptroller claimed those were slow assets. I also know that the Comptroller claimed that there had been losses to the amount of $197,795.50. I also know that the Comp-
76 troller claimed that 31% of the total loans and discounts of that bank were to directors and their concerns in which they were directors.

At page 198 of the Transcript of the Evidence it appears that Mr. Hall, attorney for the plaintiff, offered PLAINTIFF'S EXHIBITS 22, 23, 24 and 25.

Mr. Kenworthy: The defendant, the Mechanics Universal Joint Company, objects to so much of Exhibits 22 and 23 as purport to show the Comptroller's or Examiner's opinion as to the valuation and character of the assets of the Manufacturers National Bank & Trust Company; also to so much of the letter dated January 8 from the Deputy Comptroller to the Board of Directors of the Manufacturers National Bank

which expresses the opinion of the Comptroller as to the valuation or condition of the assets.

Mr. Early: I desire the same objection to apply to the defendant Eric S. Ekstrom.

Objections overruled. Defendants except.

ERIC S. EKSTROM, on cross-examination, in answer to interrogatories propounded to him by Mr. Kenworthy, attorney for defendant, Mechanics Universal Joint Company, testified as follows:

I have been asked concerning some negotiations that were had in the bank examiner's office in Chicago between the directors of the Manufacturers National Bank and the Bank examiner relative to notes that were taken over by the Winnebago Securities Company. That conversation was some time in November, 1930. I first heard of the plan to organize the Winnebago Securities Corporation to take these assets out of the bank from the Chief Examiner in Chicago. He suggested it. He suggested that in the event the Company was organized and the plan carried out it would greatly improve the
77 condition of the bank. That if this was done the Bank could continue operations. He said that the bank would be in a fairly good condition if that plan was carried out and that the condition of the bank would be satisfactory to the Department. I understood that his plan was for the Winnebago Securities Company to pay certain money into the bank and give its note for the difference between the amount of money it paid and the securities taken out by it. It was my understanding that the Winnebago Securities Company had paid in $150,000 of money to the bank. At the time of this meeting with the Chief Examiner at Chicago in November, 1930, Mr. A. R. Floberg, the President, and Hugo Olson, the Vice President, and I think H. A. Taylor, the Vice President and Trust Officer of the Manufacturers National Bank and Trust Company were present. The Ralph Thompson and Norman F. Thompson whom I have mentioned were not officers or directors of the Bank. We were in the bank examiner's office several times before the deal was finally consummated, but I think the first meeting was in November, 1930.

E. E. THAYER, a witness called on behalf of plaintiff, in answer to interogatories propounded to him by Mr. Roy F. Hall, testified as follows:

I live in Rockford, Illinois, and am Cashier of the Third National Bank of Rockford. Have been such for about two years. I was acting as such Cashier on June 12 and 13, 1931. I have brought the records of the bank with me. I have the account of the Mechanics Universal Joint Company with the Bank. The paper that is marked "Plaintiff's Exhibit 1" is the original record of the bank of that account. So far as I know it is shown correctly. This is the original ledger sheet.

This is where all of the credits are placed. There are
78 debits on one side and the various dates of credits and debits showing the true history of the deposits and withdrawals. This sheet begins April 14, 1931 and it ends July 13, 1931. On the extreme left of Exhibit 1 is a column entitled "Proof". The figures under this column are the carry over of the old balances and this is the new balance. It means for instance that on April 17, before anything was done, there was a balance of the amount of money shown under "Proof". At the extreme right is a column entitled "New Balance". Under this column are shown the balances during the course of business. If there is only one opposite a day's transactions it defines the balance at the close of business on that date. In other words, the left hand side under "Proof" is what the balance was before any transactions and the other side under "New Balance" the balance after the transactions. That is true of both sides of the sheet. The dates shown are the dates of the various transactions. Under the column "Checks in Detail" are shown the details of the checks that made up the transaction. Under the heading "Date of Deposit" that means that the figures under that column show the date that the deposit went on the ledger sheet, the day the deposit was made and the amount of the deposit. As far as I know all the figures on here are true and correct. Referring to the date of June 13, I also have a deposit ticket which is numbered "Plaintiff's Exhibit 2". This is the original deposit ticket. The deposit ticket states on its face "Check $42761.12". I do not know from looking at that how that deposit came to the bank. I could tell that the deposit was by check. There is nothing on the deposit slip that informs me on whom the check was drawn. I have no records of the bank here that

will disclose that. There was at the time in Rockford a
79 Clearing House where our bank cleared checks on other banks in Rockford. Our bank kept a record of its transactions with the Clearing House. I do not have the list of clearings with me but I will produce it later. I do not know the individual employee of our bank who received the deposit slip, "Exhibit 2". The number of the Department that received the slip was Number 4. That was the receiving teller. There is no way by which I could show when that check arrived at our bank or how it arrived there. Department No. 4 received deposits that came through the mail as well as deposits at the window. I think I recognize the handwriting on deposit slip "Exhibit 2" and I would say it was in the handwriting of W. H. Stark, an employee of Mechanics Universal Joint Company. While I have never seen him write, I am familiar with his handwriting. His signature card is on file in our bank. I have one in my pocket—an old card. This deposit slip is all in handwriting—not typing. I think the man in charge of our Department No. 4 on June 12 1931 was Valdemar Jansen, but I am not positive. It appears from Plaintiff's Exhibit 1 that the deposit under date of June 13, 1931 was for $42,761.12. It means that on the thirteenth day of June, 1931, there was deposited in the bank to the credit of Mechanics Universal Joint Company, of Rockford, Illinois, $42,761.12, and from my knowledge of the bank I would say that the deposit slip, Plaintiff's Exhibit 2, dated 6-12-31, refers to the same amount as the deposit of $42,761.12 shown under date of June 13, in Exhibit 1. I believe clearings were made through the Clearing House in Rockford at that time in the morning at 9:30 or 10:00 o'clock. So that these records would indicate to me that in the course of our business that the check was received on the morning of the thirteenth and placed in the clearings of that day.

PLAINTIFF'S EXHIBITS 1 and 2 offered in evidence.
PLAINTIFF'S EXHIBIT 1 admitted as to all entries on and prior to June 13. Objection sustained as to balance.
80 PLAINTIFF'S EXHIBIT 2 admitted.

I have with me now the payroll accounts of the Mechanics Universal Joint Company and also a deposit slip dated June 12, 1931, showing a deposit of $1390.92. I produce both of them. Exhibit 8 is a deposit slip dated 6-12-31. That is an original record of our bank. It is a deposit to the credit of Mechanics Universal Joint Company. On Plaintiff's Exhibit 1 there appears to be two deposits on June 13—one of

them for $42,761.12, on June 13, and there was also a deposit of $1390.92. It means that there were two deposits on that day and the deposit slip, Plaintiff's Exhibit 8, refers to the entry on Plaintiff's Exhibit 1 under that date of $1390.92. It shows that there were two separate and distinct deposits on that day, June 13, 1931, one of $42,761.12 and one of $1390.92. The credit would be entered on Plaintiff's Exhibit 1 from the deposit slips, Plaintiff's Exhibits 2 and 8.

The payroll account of the Mechanics Universal Joint Company with our bank is marked Plaintiff's Exhibit 9 and 9-a. This is a separate account called the Mechanics Universal Joint Company payroll account and is from April 23, 1931 to July 16, 1931. This is an account used for their pay checks. All pay checks paid by our bank were entered against that account. The account shown by Plaintiff's Exhibit 1 is the general ledger account of the Mechanics Universal Joint Company and had nothing to do with the pay roll account. All deposits to the pay roll account were made up from a deposit slip directing the bank to deposit to that account and when payroll checks were paid they were charged against that account. This is a separate and distinct account from the general account represented by Plaintiff's Exhibit 1. Ex-
81 hibits 9 and 9-a are records of the Third National Bank of Rockford, Illinois. They are kept under my general direction and are true and correct to the best of my knowledge. The books of our bank were in balance on June 13, 1931. I produce a paper that is marked Plaintiff's Exhibit 10, showing the correct balances of the bank on that day. Exhibit 10 is a copy I made from the original book. As shown by Exhibit 8 the deposits to the payroll account on that day consisted of checks drawn on some other bank in Rockford, totaling $656.34, checks drawn on some bank outside of Rockford, totaling $537.55, and checks on our bank, totaling $191.03, and Post Office Orders, totaling $6.00. A total of all of these represents the total of this deposit.

PLAINTIFF'S EXHIBITS 8, 9, 9-a, 10 and 11 offered in evidence and objected to by counsel for the defendant, which objections were overruled by the Court and exception duly note.

Plaintiff offers PLAINTIFF'S EXHIBITS 1 and 2. Plaintiff's Exhibit 1 is objected to as to all entries on it with the exception of June 13, 1931.

The Court: Objection sustained. The first half up to June 13, objection overruled, last half, objection sustained.

The witness E. E. THAYER, being cross-examined by S. R. Kenworthy, attorney for defendant Mechanics Universal Joint Company, testified on cross-examination as follows:

None of the entries made on Exhibit 1 were made by me and the conclusions that I have drawn from examining Exhibit 1 and Exhibit 2 as to when this check came into the bank and the manner in which it came in are based upon the correctness of Exhibits 1 and 2, neither of which I saw at the date any of these entries were made.

82 *Redirect Examination of Witness, E. E. Thayer.*

As cashier of the bank, I had charge of the routine of the institution, looking over, overseeing the various departments, handling the mail and various other things. The bookkeeping department comes under my supervision in a way. From time to time I look at the accounts of customers and have them audited. I could not state what particular person made the entries shown on Exhibit 1. From time to time I have had this account audited with others and so far as I know there has never been any error in this account. If there were errors, the auditor should find them. There is a custom in the bank of making up a daily balance sheet which tends to show whether the bank books are at balance. The daily balance sheet is a constructive statement of the whole institution. If our books balance, they are correct.

H. A. CONKLIN, a witness for the plaintiff, examined by Mr. Hall, testified as follows:

I live in Rockford and was employed as Cashier by the Manufacturers National Bank and Trust Company. Had been such since January 29 and was so acting on June 13. I took care of the mail and had charge of the help, looked after the payroll, attended the customers as they came in. The bookkeeping of the customers accounts was partly under my direction. The bookkeeping department had charge of that. Mr. Kramer was the head of that. He worked under me. The bank had a system of making up a sheet of figures at the close of each day to ascertain whether or not the bank's

books were in balance. Plaintiff's Exhibit 3 which
83 you hand me appears to be the account of the Manufacturers National Bank and Trust Company with the Mechanics Universal Joint Company. I believe it is the original ledger sheet of our bank. The last entry thereof, June 13, 1931, of $46,197.03, indicates that a total list of checks of that amount was charged to the account of the Mechanics Universal Joint Company at our bank. Plaintiff's Exhibit 4 which you hand me is the duplicate of the original list that was sent to the Mechanics Universal Joint Company with their return checks when their checks were returned. The stamp on Plaintiff's Exhibit 4 "Payable 6-13-31" was the stamp of the bank. On the list, Plaintiff's Exhibit 4, there appears an item of $42,761.12 which is indicated in the total of the amount charged to the account on that day, Exhibit 4 being the detail that goes to make up the charge of $46,197.03, made against the account on June 13. Plaintiff's Exhibit 5 is a list of the clearings received from the Third National Bank by our bank on June 13, 1931. That is the usual way in which clearings were exchanged, by having a list. It is a list made up by the Third National Bank in their clearing department as a list of checks that they had against our bank to be exchanged through the clearings on June 13. All of these items were checks that they had against that bank on that morning. There is nothing on this list that would indicate the amount of checks our bank had against the Third National Bank to be exchanged that morning. This list shows the total of the checks of the Third National Bank had against the Manufacturers Bank on June 13 was $53,-604.02. The figure $4617.01 which is in red I would presume it was the total of the first run of the items the Third National Bank had on us on that day—in other words, the
84 checks that came in early that day. That is intended to include the total of all the items above it. The item $5,703.27 in red is the continued total including the original total plus other checks that had been added to the list. Then down two-thirds of the way there appears in red in figures $4872.91. That is the total of intervening items between those two titles. The entry $5708.67 and then a figure of $10,851.58 is the total of the two previous totals. Immediately below the figures $10,851.58 appears the figures $42,761.12. In my opinion this last figure indicates the same item as the figure $42,-761.12 mentioned in the Plaintiff's Exhibit 4. I believe Plaintiff's Exhibit 3 is a true and correct statement of the account. In a number of places there appears the word "LS". This means that the amount represents the total of a list of checks.

Witness CONKLIN, cross-examined by Mr. Kenworthy, testified as follows:

The paper marked Plaintiff's Exhibit 3 is a ledger account between the Manufacturers National Bank and the Mechanics Universal Joint Company covering a period of time from April 16, through to June 13, 1931. And Plaintiff's Exhibit 4 is simply a duplicate of the list of various checks that were returned by the Manufacturers National Bank to the Mechanics Universal Joint Company with the cancelled checks. It is a list of the checks of the itemized statement of checks or list of checks that were paid on June 13, 1931 by the Bank, the checks being drawn by the Mechanics Universal Joint Company. Plaintiff's Exhibit 5 is simply a list of clearings sent to the Manufacturers National Bank by the Third National Bank on June 13, 1931; and the items in red are totals
of items that the Third National Bank received during
85 June 12. I believe the slip was dated June 13, but most
of those items were items that came to the bank on June 12, but were sent through the clearings on the 13. I could not tell what checks came into our bank on the twelfth but if they handle their clearings the same as we do, the items on the bottom of the list are items that came in on the morning of the 13. I refer to the next to the last red figure. I refer to the figure $10,581.58 and in my opinion the items above that figure were items that were received by the Third National Bank on the twelfth.

M. R. BATY, a witness for the plaintiff, testified upon examination by Mr. Hall, as follows:

I reside in Clinton, Iowa and am a National Bank Examiner in the employ of the Comptroller of the Currency. Have been such since September, 1930, and was so employed on June 11, 1931. On the latter date, I went to Rockford, Illinois, at the request of Mr. Floberg, President of the Rockford Clearing House Association, who was also then President of the Manufacturers National Bank and Trust Company. I arrived in Rockford that morning about eight o'clock and Mr. Floberg came to my room at the hotel. Mr. L. B. Achor was with him. After I saw Mr. Floberg, I made a visit to another bank in Rockford, the Security National Bank, and im-

mediately after that I visited the Swedish-American National Bank. There were some negotiations between those two banks which lead to the formation and signing of a contract. I then went back to the Manufacturers National Bank and Trust Company about eleven o'clock in the morning and had a meeting with the directors. I know Eric S. Ekstrom. He was present at that meeting. I also know Hugo Olson, and
86 he was present also. Eric S. Ekstrom and Hugo Olson were both directors of the Manufacturers National Bank and Ekstrom was a member of the Loan Committee of that bank. I examined the bank in April, 1931. The bank was on the so-called special list to be examined every 90 days or oftener. It had been on the special list for two examinations, prior to that I could not say. I made an examination of the bank in April, 1931 and made a report to the Comptroller. I saw a copy of this report that I made to the Comptroller in the bank shortly after it closed on June 13. I am unable to give the exact conversation that took place at the meeting at which Mr. Ekstrom was present on June 12, 1931. It was a detail of my business and I cannot repeat it verbatim but in substance I can.

Q. Will you state to the Court the substance of that conversation held in the presence of Mr. Ekstrom?

Objection by the defendant.

The Court: I think we had better receive the testimony subject to the objection of counsel and if later found immaterial we can strike it.

A. I reported to them the fact that the Security National Bank, because of a continued drain of deposits, felt that it was no longer fair to their depositors to continue and I told them that there had been a contract entered into subject to final appraisal of the assets for a take over of the deposit liability of the Security National Bank by the Swedish-American Bank and I told them that in view of the continued drain of deposits they had had and were still having that it would be for the best interests of the banking situation for their bank to try and arrange some place to take their deposit liabil-
87 ity under cover. I outlined to them the fact that we had four banks on the east side of the river and that if we had two banks on the east side of the river we would be in much better position. There was from various members of the Board comments as to whether they could stand on their own feet. They said they could stand any kind of a run that developed. I pointed out to them their low cash reserve. I said their cash reserve was entirely too low for

the bank to weather any continued drain of the deposits and it was my opinion that they would require far greater cash reserve. That is the substance of our conversation that morning. I advised the Board that I had a contract in my pocket between the Swedish American Bank and the Security Bank. There was nothing else said that I can recollect. There was something said if the Security Bank did not open we would have a very determined run at the Manufacturers National Bank and that whether or not it was taken over there would probably be unrest that morning. I told them that the contract provided for a take over subject to appraisal and if the take over was brought to a successful conclusion it would happen Monday morning, the fifteenth.

Q. Was there anything said in substance by you as to what would happen if the Swedish Bank did not take over the Security as to whether the Security would continue to operate?

A. I do not believe that was discussed. Nothing was said in that conversation as to what bank I would discuss the affairs of the Manufacturers Bank with. I expressed
88 the opinion that the cash position of the Manufacturers bank was such that if a run developed they would not have sufficient cash or cash resources to last very long. This meeting broke up about twelve o'clock. Eric Ekstrom was at this meeting. Whether he was there during the entire time I do not know. I have no recollection of his leaving the conference at any time. It was a small room and quite a few of us were there and most of us were standing. After the meeting I received a letter; have no recollection by whom it was signed; have not the copy with me. It is probably in my files in Clinton, Iowa. After I received this letter, I got in touch with Mr. Spafford, President of the Third National Bank of Rockford and on the night of Saturday, the thirteenth of June, a committee from the Manufacturers bank met. They met in the vault basement of the Manufacturers National Bank on Saturday the thirteenth of June. There were a number of people there. Ekstrom attended that meeting. I don't know the complete list. The meeting started about four o'clock in the afternoon.

Q. On this Saturday when that meeting occurred, when Mr. Ekstrom was there what was said and done?

Objected to on the ground that what took place after the twelfth of June is immaterial.

Overruled. Defendants except.

A. The meeting lasted until seven o'clock the next morning. Ekstrom was in and out. At that time a committee from

the Board of Directors of the Manufacturers National Bank and a committe from the Board of Directors of the Third National Bank made an appraisal of the assets of the Manufacturers National Bank for the purpose of arriving at a basis for a take over. I could not tell you whether Ekstrom was present when the meeting broke up or not.

89 Q. What, if anything, was said during that meeting in the presence of Ekstrom that you recall, if anything?

Objected to on the ground that same is immaterial as to what occurred after the twelfth of June.

The Court: I think I will admit it subject to the objection.

Exception.

A. The assets of the bank were appraised by two committees in which they set up the assets that the Third would take and would not take.

The assets were marked on that basis. The appraisal was finished about seven o'clock in the morning. Who was present at that time I could not say. During the night everybody that appeared on the committee were in and out. I could not say if Ekstrom was on the committee or not. After the assets had been valued, a statement was made to the Board by me of the amount of money that the Third National Bank would require. That is, the Board of Directors of the Third National Bank advised me how much they would require. Afterwards I talked with the Directors of the Manufacturers Bank. Could not say whether Ekstrom was present or not. This last conversation between me and the Directors of the Manufacturers was Sunday afternoon. The hour I could not say. There was a meeting of the Board of Directors of the Manufacturers on that Sunday afternoon about seven P. M. Ekstrom was present then. A chief National Bank Examiner of this District, Mr. Alfred E. Leyburn, was present on that Sunday night meeting. I was present at that meeting of the Board of Directors when the resolution was passed. Ekstrom was also present.

Q. At that meeting of the Board of Directors when Ekstrom was present what, if anything, was said about the amount of money it was necessary to be raised for the

90 Third National to take over that amount of liability?

Mr. Kenworthy: Objected to.

The Court: He may answer.

Exception.

A. It was admitted and stated by all the directors present the amount involved could not be raised. The amount talked of was $750,000. The resolution I spoke of was passed about

eight o'clock in the evening of Sunday, the fourteenth of June. From the time the doors of that bank closed at the close of business on Saturday, the thirteenth of June, they have never been opened since for the transaction of business. Some one present at that meeting asked whether they could open the bank on Monday morning. They were told that that was their duty but in view of the low cash of the bank it would not be advisable. The resolution appearing under the title of a special meeting held June 12, 1931—at 11 A. M. is the resolution that was passed before I went to talk to Spafford of the Third National Bank. The letter which you hand me, marked Plaintiff's Exhibit 6, was the resolution passed and signed by the Board that night. The signature of Eric S. Ekstrom is his signature. The sheet of paper which you hand me marked Plaintiff's Exhibit 7 is the page I examined from what I testified heretofore. On Monday, June 15, 1931, I listed the assets and liabilities of the Manufacturers National Bank and Trust Company. I made up a list of the assets of the bank to be signed by the Receiver, listing the liabilities also.

Q. At the time when you talked to the directors on June 12, about eleven o'clock, did you then know the financial condition of the Manufacturers National Bank and Trust Company?

Objected to as immaterial.

The Court: He may answer subject to objection.

A. I did.

Q. What is the fact as to whether or not any of their assets were pledged as collateral to loans?

Defendants object as immaterial. Overruled. Exception.

91 A. Yes. I told them they could not raise any more cash on their assets. When I stated that, it was true. They had pledged their assets, as collateral to loans. I don't remember where. I mean they had borrowed against their assets.

Q. With reference to that subject, state what other conversations did you have and what did you say about having borrowed money and pledged their assets?

Defendants object as immaterial.

The Court: It may go in, subject to the objection.

Exception.

A. I cannot recall any of the details of the conversation. The substance of it was that their cash position was extremely low and assets had been pledged and they were not

in a position to stand a protracted run. The entire substance of the conversation was the fact that their cash position was low; their assets were pledged; they were suffering from a slow drain. I said that to them. In substance I have told you all that I can.

Q. I want to ask you if there was anything said at that time to those directors by you in case the Security Bank did not open on Monday morning?

Objection. Overruled. Exception.

A. The general discussion was whether or not they could stand a run, whether or not the Security opened or was taken over. I told them that without a question of a doubt there would be a run and that they would have to be fortified against a run and that if the Bank did not get taken over the run would still be there.

Motion by defendants to strike out answer as not responsive. Overruled. Exception.

I can't remember anything else.

Q. Do you know what was the financial condition of the bank on June 11 to which you refer?

92 Defendants object as immaterial and irrelevant and not the best evidence and calling for the opinion and conclusion of the witness. Overruled. Exception.

A. I did know the condition of the bank.

Q. State what it was.

The defendants make the same objection.

Q. Had there been anything done before that time with reference to the assets of the bank? If so, tell what it was.

Objected to as immaterial and irrelevant.

The Court: Overruled.

A. The first examination I made of the Bank was in April.

Q. And when you examined it, what did you find from the bank's records?

Defendants object for the same reasons heretofore stated. Overruled. Exception.

A. I found from the bank's records the organization of the Winnebago Securities Company. The Securities Company was organized. $150,000 was paid in cash and they executed a series of notes of approximately $300,000 which were to be collateraled by the objectionable assets that the Comptroller had asked to be removed. $100,000 was paid in December or January to the Bank in cash for which the Bank delivered to the Securities Corporation assets of a like amount. In June the remaining $50,000 was paid in and a like amount of assets delivered. The securities that were

objectionable assets were given to the Winnebago Securities Company. They in turn executed their notes payable to the bank collateraled by these assets. It made a total re-
93 moval of about $450,000. I don't know where the Winnebago Securities Corporation was organized. It was organized by the Board of Directors and two shareholders of the Manufacturers National Bank.

Q. What was the fact as to whether or not on June 11, 1931 any of the bank's assets had been pledged?

Defendants object to question as not the best evidence and calling for the opinion and conclusion of the witness.

The Court: Overruled.

Exception.

A. Over $1,000,000 of assets of the bank had been pledged with the City of Rockford. $100,000 was pledged with the Continental Illinois Bank & Trust Company. The Federal Reserve Bank had approximately $156,000 advanced to the bank.

Q. From your knowledge of that bank and from what you learned when you examined it in April, 1931, were there any other available assets of that bank which could be used to get money?

Defendants object. Overruled. Exception.

A. Very few. Possibly $100,000 additional. The bank had rediscounts in the Federal Reserve Bank. They had a deposit in the Federal Reserve Bank and they had discounted paper to that bank to the extent of $156,000.

Q. What is the custom in cases of that kind in case the Manufacturers Bank had any financial trouble with reference to the Federal Reserve Bank whether they take out of the deposit the amount of the discounted paper?

Defendants object as immaterial and irrelevant. Overruled. Exception.

A. The Federal Reserve Bank ordinarily charges back all rediscounts against the deposit balance. The Manufacturers National Bank had a deposit balance with the Federal
94 Reserve Bank in excess of $200,000. The Manufacturers Bank had in cash on hand on June 11 in excess of $400,000.

Q. Assuming that the Security Bank of Rockford had failed to open its doors on the next Monday morning, and that this Manufacturers Bank had a total of something over $600,000 available cash, what is your opinion as to how long that cash would have lasted?

Defendants object as merely the opinion and conclusion of the witness. Overruled. Exception.

A. In my opinion their cash available was not sufficient to carry them through another business day. I said that several times on the meeting of June 11 when Ekstrom was present.

Q. Mr. Baty, do you know as a matter of fact what happened to banks that remained open in Rockford on that Monday morning when the Security Bank closed?

Objection. Overruled. Exception.

A. I do.

Q. What was the experience of the Rockford National Bank as to withdrawals on that Monday when those banks closed?

Objected to. Overruled. Exception.

A. The deposit decrease in the Rockford National Bank that day was some place in excess of $700,000.

Cross-Examination of the witness M. R. Baty conducted by Mr. Kenworthy, of counsel for defendant.

I first learned that assets were pledged by the Manu-
95 facturers National Bank on the morning of June 11 when I arrived in town and I also learned at that time that a million dollars of their assets had been pledged to the City of Rockford. I knew that on yesterday when I testified in direct examination and also knew the amount of the loan from the Continental Bank yesterday, and also the amount of the loan to the Federal Reserve Bank. As a matter of fact the deposit of the Manufacturers National Bank with the Federal Reserve was something over $50,000 more than the assets pledged. It was my opinion on June 11 and I so expressed it to the directors present that the available cash of the bank was not sufficient to stand a protracted run in the event the Security Bank failed to open or was taken over. The first meeting I had with the Board of Directors was on Friday, the twelfth of June. I was mistaken when I said it was on the eleventh. When I stated on yesterday that a meeting was held on the thirteenth day of June which lasted through most of the night and which meeting was a combined meeting of a committee of the Manufacturers Bank and a committee of the Third National Bank, I testified that Mr. Ekstrom was present. I know he was not there during the whole session. I could not say positively he was present at any time. I did not testify to any conversation I had at that meeting where Mr. Ekstrom was present. So far as I know,

no conversation took place between me and the men gathered there or between the men gathered there and themselves that was in the presence of Mr. Ekstrom at that meeting. With reference to the exhibit that has been shown me, Exhibit 7, I did not see it until after the bank closed.

Redirect Examination by Mr. Hall.

96 I remember of Ekstrom bringing in sandwiches and coffee on that night to the committee and the examiner and his assistant. I haven't the slightest idea what time that was. When I testified about Exhibit 6 that the signature thereto was Eric Ekstrom's signature, I saw him put his name there. The names of A. R. Floberg, H. A. Taylor, B. A. Wilson were placed on there Sunday night and Mr. Ekstrom placed his name there on Monday morning. Mr. Ekstrom was present on Sunday night. He did not sign that night. I had a conversation with him on Monday. He said he was very sorry for his actions before and that he did not mean it and that he wanted to sign the resolution and he did. This was in the forenoon on Monday. The Security National Bank did not open its doors on Monday morning. At the time of my examination of the bank in April, I was informed that they were to be depositary of the City of Rockford and I informed them that they could not take the deposit in unless they secured it with bankers' acceptances or collateral of the same high character.

Recross Examination of the witness Baty conducted by Mr. Kenworthy, of counsel for the defendant.

When I testified that I remembered Mr. Ekstrom brought some sandwiches and coffee into the bank at the meeting that began Saturday night and ended Sunday morning, I said he brought sandwiches into the bank. Whether he came down with the committee, I do not know.

L. B. ACHOR, the plaintiff, a witness on behalf of plaintiff, in answer to interrogatories proposed to him by Mr. Hall, counsel for the plaintiff, testified:

I reside in Rockford, Illinois. Have since February 2, 1931 and became connected with the Manufacturers National Bank on February 2, 1931. I was not a director of the Bank
97 and owned no stock in it, but was active vice-president. I was connected with the Bank in that capacity from that time up until the bank closed. Since June 16, 1931, I have been Receiver, appointed by the Comptroller of the Currency.

Motion to strike the answer as not the best evidence. Overruled. Exception.

I know Mr. Baty who was on the witness stand and also Mr. Leyburn, the Chief Examiner of this District and I am acquainted with Eric S. Ekstrom and with Hugo Olson and A. R. Floberg.

Q. Who were the directors of the Manufacturers National Bank from the time you arrived in Rockford up to the time it closed?

Objection to as not the best evidence. Overruled. Exception.

A. A. R. Floberg was the President, N. F. Thompson, Chairman of the Board up until the time of his death in March, 1931, Hugo Olson, Director and Vice President, Eric S. Ekstrom, Oscar J. Milburn, H. A. Taylor, F. F. Nelson, C. E. Lindbergh and L. C. Miller from some time in the early part of May until the bank suspended. They are all of the directors that I can recall at this time. I have in my possession the records of the Winnebago Securities Corporation. They are not in Court but are at Rockford. I know of the formation of this corporation. I have examined the books of the bank from time to time. I had a talk with Eric Ekstrom about the Winnebago Securities Corporation but I do not remember the substance of any of those conversations. I know something about the deposit of the City of Rockford of some money in the Manufacturers Bank. I know this latter matter was talked about in directors' meetings which were attended by Mr. Ekstrom at the Bank. At one time on a special meeting on May 21, 1931, the conversation con-
98 cerned the approval of the loan Committee of investments made with the cash that was created by the deposit of the City. The substance of it was that Mr. Eric S. Ek-

strom approved by telephone. I can't tell the exact conversation I had with Ekstrom about this. I can't prove it by the minutes that I had any conversation with Ekstrom but I had a conversation with him some time between May 19, and June 1, 1931. That conversation was in the Bank. Mr. Floberg, Mr. Taylor and myself were present. Had more than one conversation. Cannot remember the exact dates of any of them. The substance of the conversation was that I said we would invest those funds in liquid assets which could be placed with the City Treasurer, an amount equal to the total City Treasurer's account. They answered that these investments should be made in liquid collateral which should be pledged to the City Treasurer to secure his account, and this was done. I said at these meetings that information brought to me indicated that the City deposit would only be there for approximately 45 days, the principal part of it, approximately $1,000,000 would stay from May 19 until July 1, 10 or 15. I can tell nothing further that was said at those meetings. I said the City Treasurer had told me that according to his records bonds and interest were due in substantial amounts about July 1 and that those bonds which were due and the interest would be payable at the Manufacturers National Bank and Trust Company and that these payments would take approximately $1,000,000.

Q. Mr. Achor, did you know the condition of the Bank on June 12, 1931, as to how much cash the bank had in its vaults?

Objected to. Overruled. Exception.

99 A. Approximately $400,000. At that time the Manufacturers Bank had on deposit with the Federal Reserve in Chicago in excess of $200,000. It had rediscounts of approximately $156,000 of its assets with the Federal Reserve Bank. It was the usual custom of the Federal Reserve Bank in case of financial trouble to charge all indebtedness to the Federal Reserve Bank to the Commercial Bank's account. That included the $156,000 worth of rediscounts. The Manufacturers Bank had borrowed $100,000 of the Continental Illinois Bank and Trust Company of Chicago and had pledged in excess of $100,000 of bonds, listed marketable bonds.

Q. State to the Court whether or not on June 12 the Bank had in its possession any assets, any paper, that it could raise money on. I mean on June 12, 1931.

Objected to, particularly the latter part of the question as calling for the opinion and conclusion of the witness. Overruled. Exception.

A. Approximately $100,000, in my opinion.

Q. Upon what is your opinion based?

A. Upon an examination of the paper with a representative of the Continental Illinois Bank & Trust Company in the Bank at Rockford.

Motion to strike out the answer as being based upon the opinion of some one else. Overruled. Exception.

The total deposits in the Manufacturers National Bank at the close of business on June 12, 1931, were $4,254,543. Included in this amount there were $2,116,109.96 of commercial or checking accounts. Included in that was approximately $1,000,000 of the City of Rockford deposit. There were 100 also deposited in savings accounts in that bank on that date $1,812,120.64. There were demand certificates issued by the bank amounting to $235,103.60 and postal savings of $41,983.47, thrift accounts amounting to $27,647.50 and in another division of the thrift account $63.14 and in a vacation club $6.25. The demand certificates above listed were payable by the bank on demand. By commercial accounts I mean checking accounts upon which depositors could bring their checks to the bank and demand the money. On the savings accounts the rules of the savings department required 60 days' notice if the bank so chose. To my knowledge the bank had never required this notice. Up to that time the bank had paid out savings accounts as they were required. Savings Accounts drew interest. I was present at a meeting of the Directors of the Manufacturers National Bank on June 12, 1931. That was held in the banking room. There were present Eric S. Ekstrom, Hugo Olsen, H. A. Taylor, A. R. Floberg, F. F. Nelson, L. C. Miller, I think B. A. Wilson, Oscar J. Milburn, myself and Mr. Baty, National Bank Examiner, the witness who testified here. This meeting was about 11 o'clock A. M. At that meeting in the presence of Mr. Ekstrom, Mr. Baty said a contract had been signed between the Security National Bank and the Swedish-American Bank of Rockford, and it was hoped that the Security Bank could be taken over or merged with the Swedish-American Bank so that on Monday morning the Security Bank would be under the cover of the Swedish-American National Bank. This, however, was subject to an examination of the assets by the Swedish-American Bank and was incomplete at that time. 101 He said the preliminary contract had been signed. He also said in his opinion this would create a disturbance among the public, among the depositors of all banks of Rockford, that there undoubtedly would be runs on every bank in town and Mr. Baty said "Your cash reserves are not suffi-

cient to withhold any unusual or extended run". He asked for a resolution to be passed authorizing him to discuss the condition of the Manufacturers National Bank & Trust Company with any other bank in Rockford. It was passed to that effect and delivered to him. A letter was delivered to him authorizing it. Baty said he wanted that letter which would be his authority to go to any other bank in Rockford and discuss the condition of the Manufacturers National Bank with that other bank toward carrying out a merger or take over. I do not remember anything else that was said. Mr. Baty said if the Security Bank was not taken over by the Swedish Bank or some other bank it would not open for business on Monday morning. Baty also said "If the Security Bank fails to open Monday morning you will have a run on this bank. I don't think your cash reserves are sufficient to withstand a full day's business." The minute book of the bank, Plaintiff's Exhibit 7, was dictated by me shortly after the meeting. The record contains a reference to the appointment of a committee. The committee appointed were A. R. Floberg, Hugo Olson, H. A. Taylor, Ralph E. Thompson, and L. B. Achor. At that meeting Mr. Baty said that the committee would confer with a committee from some other bank in Rockford relative to the assets of the Manufacturers National Bank and they would make an examination together. I remember a meeting of the Board of Directors on June 14,
1931. This was Sunday. It was held in the banking
102 house. Ekstrom was present. I acted as Secretary of
that meeting. The Plaintiff's Exhibit 12 which you hand me is the record of that meeting and it is true and correct. It was dictated by me and written within 30 minutes after the meeting. Ekstrom was present. There was a resolution passed at that meeting. (Ex. 12) It is my recollection that Hugo Olson made the motion and it was seconded by Eric S. Ekstrom. There was another meeting of the Board of Directors on Sunday, June 14, at 8:05 P. M. That meeting was held in the basement of the Manufacturers Bank. I acted as Secretary of that meeting. Ekstrom was present. Also Olson, Floberg, Taylor, Wilson and Milburn. Plaintiff's Exhibit 6 which you show me was a resolution presented at that time. I saw the signatures put on that paper with the exception of the signature of Ekstrom. Each signature was made by the person whose name appeared. I know the signature of Ekstrom. I would say that the signature appearing on Exhibit 6 is his genuine signature. I was present at the meeting that began Saturday night and ended about daybreak on

Sunday morning. I recall that some time between twelve and three o'clock Ekstrom and Olson and maybe one or two others delivered to the group assembled there some sandwiches and coffee. The assembled group consisted of the committee appointed by the directors of the Manufacturers National Bank and a committee appointed by the Third National Bank which were appraising or going over the assets of the Manufacturers Bank. These committees began their work about six P. M. on Saturday, June 13. The meeting continued until 7 A. M. on June 14. This was Sunday morning when the work was stopped. Up to that time the assets of the bank had been tabulated as to accepted and rejected assets in case
103 a take over was made. That is to say the Third National Bank had said what assets they would take. The next I saw of Eric Ekstrom was at 1:15 P. M. on Sunday afternoon.

Q. At that time was there anything said in the presence of Ekstrom as to the result of that tabulation?

Objected to by the defendants as calling for the opinion and conclusion of the Committee of the Third National Bank as to the value of assets and not as to any fact. Objection overruled. Exception.

A. Nothing was said to my knowledge to Ekstrom until later in the evening. Ekstrom was present.

Q. What was said?

Defendants make the same objection. Overruled. Exception.

A. Mr. Baty said to the Board of Directors substantially that the Third National Bank had formed its conclusion from their examination of the assets the night before; that they would require $750,000 in cash as a guaranty before they could take over the assets and assume the deposit liability of the Manufacturers Bank. Some one said, I cannot state who it was, that it was apparently impossible to raise such a sum of money as that. This was before Plaintiff's Exhibit 6 was signed. Within the course of the next thirty minutes after that conversation all of the directors signed except Ekstrom. I know the Manufacturers Bank owned its banking house and I know that it was carried on the books for the value of $538,000.00 and that its furniture and fixtures were carried at a total of $54,197.21, making a total book value of bank and furniture and fixtures of $592,197.21.

104 Q. Has the Comptroller of the Currency levied an assessment upon the stockholders of the Manufacturers Bank & Trust Company?

Objected to as not the best evidence. Overruled. Exception.

A. Yes, sir. I have endeavored to collect those assessments. I have had the assets of the bank in my possession since I became Receiver.

Q. What have you done with reference to attempting to collect those assets?

Objected to as immaterial and irrelevant. Overruled. Exception.

A. I have used every means to collect the assets. Where, in my opinion, it was necessary to bring suit, take judgment, order execution or judgment, I have; many of them I have worked along with the debtors on a payment plan and attempted to collect every cent I can. And that has been true with the assessments levied by the Comptroller. The Bank has paid to its depositors 46% of the amount of their deposits. I have an opinion as to the reasonable value of the assets that are left.

Q. In your opinion will you be able to pay the depositors of that bank 100%?

Objected to as immaterial and irrelevant, and calling for the opinion and conclusion of the witness. Overruled. Exception.

A. No, sir.

From February 2, 1931 to June 13, 1931, disregarding the approximate $1,000,000 of city funds, there was a deposit decrease of approximately $500,000, in the Manufacturers Bank. I have in my hands as Receiver of the Manufacturers Bank the collateral notes that were in the bank as collateral to the Winnebago Securities Corporation. I have been able to collect a small amount of these collateral notes. There
105 is in the bank now three notes of the Winnebago Securities Corporation totaling in excess of $200,000. I know that the Winnebago Securities Company has no assets other than those which are pledged to secure collateral to the Manufacturers Bank. I was president of the Winnebago Securities Company from the time I went to the bank on the second of February, and I served until the suspension of the bank. The notes of the Winnebago Securities Company had been deposited to the bank before I became president of the Securities Company. The records of the Securities Corporation are in my possession. With the exception of a small amount of cash which was collected from time to time, the Securities Corporation had no assets other than the notes which it had pledged with the bank. Among the assets of the bank was a note signed by Eric S. Ekstrom. That has not been paid. I have attempted to collect it.

Q. Do you know the total amount of the debt of Eric S. Ekstrom to that bank?

Objection. Overruled. Exception.

A. He has a total liability there in excess of $30,000.

Q. Do you know how much Ekstrom owed the bank at the time it closed and the direct liability of his own?

Defendants object. Overruled. Exception.

A. $53,000.00. He also had an indirect liability of approximately $31,000. He owned 85 shares of stock in the bank as I recall. I have talked with Ekstrom since the bank closed about paying his debt and he said he could not pay it. He said if I were to press him that he would be forced into bankruptcy and probably would not get anything. With
106 the exception of possibly a small amount on his stock assessment, he has paid nothing. I think he paid two or three hundred dollars on his stock assessment.

Q. Do you know how you can make him pay that debt?

Objected to. Overruled. Exception.

A. No, sir, I don't know of any way to enforce collection.

The witness L. B. ACHOR, on cross-examination conducted by Mr. Kenworthy, testified as follows:

I have been in the banking business all my life. Before coming to Rockford I was an examiner for the Federal Reserve Bank of Chicago. I have also been a bank examiner employed by the Comptroller. Have been in the banking business substantially all my business life. I was made Vice President of the Manufacturers National Bank immediately upon my employment and the duties assigned to me were to give attention to the loans, collections, security and payment of loans due that bank. And I immediately became acquainted with the loans that the bank had made. I was in the bank every business day and consulted with the other officers of the bank with reference to the problems of the bank, daily. I was more or less familiar with all discounts of the bank and shortly after coming into the bank I knew of this matter of the Winnebago Security Corporation, its connection with the Bank. I knew that the Winnebago Securities Corporation had taken some securities, had purchased from the bank some securities that the Comptroller was not satisfied with and that the amount of those securities approximate $397,000, and I knew that the Winnebago Securities Corporation had paid or agreed to pay $150,000 in cash and give its note or notes

secured by the collateral purchased in payment for that
107 collateral. That had all been arranged and $100,000 had been paid before my connection with the bank. And subsequently it paid $50,000 more to the bank while I was an officer of the bank and of the Winnebago Securities Corporation. Aside from the notes it had purchased from the bank, I know of no other assets that the Winnebago Corporation had. I was familiar with that transaction from the day I started in the employment of the bank; and I know that that transaction did not make the Manufacturers Bank insolvent at that date. If reports were made by the bank between the second of February and the close of the bank, I saw it before it was sent to the Department. I know there was one called report made by the bank between my employment and the 14th of June, 1931. And there was also a letter sent to the Comptroller's office signed by 6 directors of the bank, approximately once a month. I had nothing to do with the preparation to those letters. I saw them, however, before they were mailed. I have a copy of the report that was made but do not have it with me. That was a report made by the Examiner to the Comptroller of the Currency. It reflects the true condition of the Manufacturers Bank as I understood it at the time. With reference to the deposit of the City of Rockford's money, one of the employees of the Manufacturers bank was elected as treasurer of the City of Rockford. I knew it was a custom for the Directors of the Manufacturers Bank to go on the treasurer's bond. I also know that when arrangement was made between the Treasurer of the City of Rockford, who was an employee of the Manufacturers Bank, and the directors of the bank by which the deposit of the City of Rockford was to come into the bank, that they would be immediately invested in quick assets, mostly bankers' ac-
ceptances drawing a very low rate of interest and prac-
108 tically 100% liquid, and that under the arrangement made these securities that were purchased with the City's money were placed in a special vault under the control of the City Treasurer and one of the three officers of the bank, so that none of those securities could be withdrawn by the City Treasurer without the knowledge of the officers of the Bank. That was what I call a pledge of the assets. The intent and purpose of that was not to protect the directors of the bank who had signed the Treasurer's bond, in my opinion. While the arrangements were made before I became an employee of the bank, the details of the handling of the account were worked out later after I was there. I was active in the pur-

chase of securities with the money that had been deposited by the City. The Loan Committee of the bank O. K'ed. all of the investments and we discussed it prior to there being made so I would say it was done with the full authority and knowledge of the Loan Committee of that Bank. In fact the whole Board of the bank knew it. The reception of that deposit and the investment of the proceeds of the deposit in quick securities did not change the cash condition of the bank one bit. I have a financial statement of the bank for the last day of May, 1931, but I do not have it with me. I have it in my custody. These statements were prepared by the general bookkeeper. I examined them almost daily and they reflected the true condition of the Manufacturers Bank as shown by the books. The bank on June 13 or June 12 had approximately $400,000 in cash on hand in actual currency and exchange. It might have been made up of a lot of cash items and checks on other banks in the town which are usually counted in the cash balance as cash. It was quickly and readily convertible into cash. The amount was slightly
109 in excess of $400,000. I have not the exact figures with me. I will get same and state the exact amount. In addition to that the Manufacturers Bank had on deposit with the Federal Reserve Bank in Chicago somewhere around $200,000. The legal reserve of the bank was fully intact. By legal reserve I mean every National Bank or member of the Federal Reserve System is required to keep a legal reserve which is figured a percentage of its deposits in the different communities. In addition to that the Manufacturers Bank had securities with the Federal Reserve Bank which it had rediscounted to the amount of $156,000. It had contingent liabilities of the Federal Reserve Bank of $156,000 if none of those rediscounts were paid. If, however, they were paid in full by the endorsers or makers of them there would be no liability from the Manufacturers Bank to the Federal Reserve Bank. In addition to that the Manufacturers Bank had a deposit with the Continental Bank of Chicago. I cannot give you the exact figures or approximate them. It had also rediscounted a note for $100,000 and pledged marketable bonds to secure the investment of that $100,000. The bonds so deposited were worth the amount of the indebtedness. So that the Manufacturers Bank had available in cash the amount of that loan from the Continental Bank so that instead of $100,000 in bonds it had $100,000 in cash. On the first day of June, 1931 the Manufacturers National Bank of Rockford, Illinois, was, to my knowledge, solvent. It was solvent on the second

and the sixth and up to the twelfth of June it was solvent and in my opinion on the 13th day of June it was solvent. There had been no material change in the condition of that bank
110 from the first day of June until the thirteenth, except that there had been a decrease in deposits. By that I mean that the withdrawals had been in excess of the deposits. I can't tell you off hand, nor can I approximate the amount. Notwithstanding the withdrawals in excess of deposits during the period from the 1st day of June until the 13th day of June, it was my opinion that the bank was still solvent on the 13th day of June. By referring to my records, I find that the total deposits on June 1 were $4,410,549 and on June 13, $4,147,368, a decrease of approximately $270,000. I was refreshing my recollection from a daily financial statement of the Bank. Between June 1, 1931 and June 13, 1931 the deposits of the City of Rockford had increased $26,165.89. The daily slips which I have produced, dated from June 1 to June 13, respectively, are not complete statements of the assets and liabilities of the bank. It lacks a statement of many of the assets which are not listed on those statements. These statements are made up particularly to show the cash position of the bank. The slip which I produced dated June 1, 1933 is a mistake. It should read "June 13, 1931". It is a copy that was made up this morning and hence the error. I would like to correct that to read "1931" instead of "1933". I am not able to approximate the amount or value of the cash assets that are not shown on these daily statements. These statements simply show the cash and bonds. They are intended to be a cash position statement. On the June 1, 1931 statement, there appears an item "Continental $6,770.39". That means the balance due from the Continental Bank to the Manufacturers National Bank was that amount. Immediately underneath that is "C D Continental $250,000." That repre-
111 sents certificate of deposit issued by the Continental Bank to the Manufacturers Bank. Underneath that is Union Trust $295.70. That means there was on deposit in the Union Trust Bank that amount to the credit of Manufacturers Bank. Underneath that "National City $2111.02", that indicates there was on deposit in the National City Bank that amount. Underneath that is the word Federal $290,702.90. That means there was on deposit to the Federal Reserve Bank to the credit of the Manufacturers Bank that sum. Underneath that is the item Fed. transit $37,724.63. That means an item sent to the Federal Reserve Bank for credit for which they had not received credit as yet. These

items were in transit at the time and when received by the Federal Reserve Bank would be credited to the account of the Manufacturers Bank. Underneath that on the daily statement of June 1 are the words Chase $12611.74. That means that there was on deposit in the Chase National Bank of New York City that amount to the credit of the Manufacturers Bank. Underneath that is a statement Commerce $859.65. That means that there was on deposit in the National Bank of Commerce at St. Louis a credit of that amount due to the Manufacturers Bank. Underneath is the word Cash $208,898.04. That means that there was in cash or cash items in the Manufacturers Bank that amount of money. So that the cash in the Manufacturers Bank and due from Banks on the first day of June, 1931 was $809,978.07 and on the 13th day of June, at the close of business of that day the cash in the bank and cash due from banks—that is the cash in the Manufacturers Bank, together with cash due from banks, had
112 increased to $825,955.17. On June 1, 1931 the bills receivable of the Manufacturers Bank of Rockford were carried on their books at a value of $2,429,478.54 and on the 13th day of June the bills receivable of that bank were carried on their books in the amount of $2,363,601.53. The deposit liability of the Manufacturers Bank on June 1, 1931 was $4,410,549.00 and the deposit liability of the bank at the close of business on the 13th day of June was $4,147,368. On the 12th day of June the deposit liability of the bank was $4,254,543 and on the 13th day of June the deposit liability had been reduced to $4,147,368 so that on June 13 there had been withdrawals from the bank in exact figures of $107,175. The Manufacturers National Bank of Rockford was open all day on June 13. It had cash enough to meet all of the demands upon it on June 13. It honored every demand that was made upon it on June 13 and the same is true of June 12, and at the close of business on June 13 after honoring all the demands that were made against it, it had in cash, or due from banks, the sum of $825,955.17. The deposit liabilities that I have heretofore testified to as of date June 1 and June 13, respectively, included the deposit liability to the City of Rockford in addition to the cash that the bank had in its vault and on deposit in banks. It had bonds of $358,227.54 and on June 13 it had bonds of the value of $348,402.54 so that the bonds had been depleted during that period to the extend of about $10,000. On June 12, 1931 the Manufacturers Bank owned bankers' acceptances to the amount of $499,750.32 and on June 13 it owned the same amount of

bankers' acceptances. On June 13, the amount of bonds
113 that the Manufacturers Bank of Rockford owned was $331,181.30 and on June 12, $348,402.54. On June 1 the bank owned Bankers' Acceptances amounting to $499,750.32. This item had not changed between June 1 and June 13. On this daily statement of June 1, 1931 appears an item "Commercial Paper." That means the Bank owned commercial paper. This particular item was made up of General Motors acceptance paper and such other paper and the same high grade character which is generally known among bankers as quick assets. So the bank owned $70,000 of those quick assets on June 1, and owned an equal amount on June 13 at the close of business. The next item on this statement is Avail. Fed. That means funds coming out of transit accounts listed above and which from this date would be available. So that the transit account shown on the statement would be decreased that amount. On the statement of June 1, under the head "Pledged with City Treasurer" that means that the amount of assets therein represented were behind the city deposit, and are a part of all those mentioned above. If you wanted to show the natural condition of the bank, excluding the city treasurer's account, I suppose you would subtract the accounts pledged from the city treasurer's account on the one side and then you would subtract the city's deposit on the other to correctly reflect the true condition of the bank. There were more assets pledged to secure the city's account than the city's account amounted to. This was a very active account and changed from day to day but on June 13 there was a margin of $170,000. I don't know when taxes are paid in Rockford. As the usual thing when people pay their taxes they pay them by checks on the bank. While the Manufacturers Bank was a depositary of the city
treasurer of Rockford it was not a depositary of the
114 county and state taxes. I regarded the depletion of deposits of $270,000 in a bank the size of the Manufacturers National Bank during the tax paying period as an unusual depletion of deposits. I don't know that I was particularly alarmed at this decrease in deposits but I knew if it continued indefinitely that the same thing would happen to that bank as would happen to any other bank. I was concerned about it. However it did not indicate to me as an officer of the bank that the bank was insolvent or nearly approaching insolvency. When Mr. Baty the National Bank Examiner came to Rockford on June 11 or 12, Mr. Baty told me that the Security Bank was in trouble and he asked

"What effect is that going to have on you?" I told him I could not tell. He made no further statements at that time. I had other talks with him several times during Thursday, Friday, Saturday and Sunday at times other than when he met with the directors. I discussed the situation with him. I could not say that I had anything to do with the calling of the directors together at any of the meetings that were held of the directors. The first meeting was held June 12 somewhere around noon; it convened about eleven o'clock and lasted approximately an hour. I was present during the whole of that meeting and Mr. Baty was there a part of the time. I would say he was there half of the time. The latter half. The Chief Bank Examiner was not there. Before Mr. Baty arrived at the meeting, the meeting was called and waited a few minutes until he arrived. There was a discussion while awaiting his arrival of the general conditions in Rockford. I can't remember any special thing that was stated prior to the arrival of Mr. Baty. In substance
115 the subject discussed was concerning passing a resolution and giving the examiner authority to discuss the condition of the Manufacturers Bank with any other bank in Rockford. As I remember it this was discussed before the arrival of Mr. Baty but I don't remember who broached the subject. Neither do I remember anything that was said by anybody before the Bank Examiner arrived. I don't remember what was said. The main thought up to that time was the condition of the Security Bank and the balance of the discussion was a conjecture as to what effect the closing of the Security Bank might have on the other banks in Rockford. There was nothing said, prior to the time the Examiner came, about closing the Manufacturers National Bank at that time. When Mr. Baty came to that meeting it was in the front office, first floor of the Manufacturers Bank Building, in the president's office. This was a small office and the meeting was held during banking hours of that day. The bank was open for business at the time. When Mr. Baty came in he said in effect that the Security Bank had entered into a contract with the Swedish-American Bank for consolidation. He said the contract was signed. I don't remember of him showing the paper purporting to be the contract. Then Baty told the meeting that in the event the Swedish-American Bank did not take over the Security Bank and in the event that the Security Bank was closed, that that would likely start a run on the remaining Rockford Banks. He said that the cash position of the Manufacturers Bank was such that if a run took

place that they would not be able to withstand any undue withdrawals; probably would not be able to withstand the day's business. I don't remember whether he said there were too many banks on the east side of the river in
116 Rockford or not. I don't remember that he said it would improve the condition and restore confidence of the people in his opinion if there were fewer banks and at least two mergers took place. In substance he said that if the Security Bank and the Swedish-American Bank would be put together and the Manufacturers Bank and probably the Third Natl. Bank, that would leave three banks on the east side of the river instead of five and it would make for a better condition all around. I think he said that. I can't recall anything else that was said there at that meeting. He said that if this proposed merger between the Security Bank and the Swedish-American Bank went through it would become effective between Saturday, at 1:30, and nine o'clock Monday morning. He offered an option as to what effect a merger of the Security Bank and the Swedish-American Bank would have on the banking situation in Rockford. He said that it undoubtedly would upset the minds of a lot of depositors and probably cause a run in the banks of Rockford. Even though it would be taken over and under the roof of the Swedish-American Bank there would be some unrest and some withdrawals. He said if the Security Bank does not open Monday morning there undoubtedly will be a run on all of the other banks in Rockford. He advised the Manufacturers Bank to negotiate for a merger with some other bank and he asked for authority from the Board of Directors to approach some other bank to discuss the question of merging and resources. I don't remember that he said that he was desirous of doing this to improve the general banking conditions in Rockford. I don't remember that at that particular time he discussed, before the directors, what bank he intended to approach in regard to a merger with the Manufacturers. At that
117 meeting various of the directors talked to him very freely. I don't remember what any particular one said. I do remember one of the directors saying to Mr. Baty that he felt that they knew the temper of the people of Rockford and that they felt they would be able to withstand a run: but who said it I cannot say. I don't remember if more than I expressed that opinion. I remember nothing other than I have already stated as to what took place at that meeting except that a resolution was passed by the Board of Directors. There was no discussion there as to the solvency of the Manufacturers Bank. Mr. Baty said the cash position was so small

that they could not stand an unusual withdrawal on Monday. I don't recollect that he stated what the cash position was. Neither did he predict the amount of the run on Monday although he said that the run would undoubtedly use up all of the available cash resources of the Manufacturers Bank in his judgment. The next meeting Baty had with the directors of the Manufacturers Bank was Sunday night, at eight o'clock P. M. although on Saturday night he met with the committee which was selected by the Board. The next meeting between Baty and any directors of the Board was on Saturday night. I was present when that meeting convened and was there all night up until seven o'clock the next morning. I have no recollection whether Eric Ekstrom was there when the meeting convened or not. I have no recollection of seeing Ekstrom at that meeting at any time except along around two o'clock in the morning when he and Mr. Olson brought some sandwiches and coffee. To my knowledge, that was the only time he was at that meeting and he was there probably thirty minutes or an hour. There were some discussions while
118 he was there. I have no recollection of anything that was said while Mr. Ekstrom was there. No action of the Board of Directors was taken at that meeting Saturday night that ended Sunday morning. There were no statements made as to the conditions upon which a merger might be effected. All that was done was a discussion of the assets of the Manufacturers Bank and the value of each. That is, the assets of the Manufacturers Bank was composed of different items of securities and these were gone over one by one at that meeting and there was a discussion as to the value of each item and the collateral behind each item and the securities and loans. The parties representing the Third National Bank would take down the items and valuation of the securities that they were examining. The committee representing the Manufacturers Bank would not put down their estimate of value. The figures that were put down by the Third National group were not exhibited to the Manufacturers National Bank group there at that meeting that night. The Third National group asked questions of the Manufacturers as to the value or their estimation of value of the different items; but what the result of the examination of those assets were was not learned by the Manufacturers group until Sunday night. And the first information that I had was from Mr. Baty and he conveyed that information to the Board of Directors of the Manufacturers National on Sunday night at a meeting called by the President of the Bank at Mr. Baty's suggestion. I was present at the meeting Sunday

night. I heard substantially all that was said. Beside Mr. Baty, Alfred P. Leyburn, Chief National Examiner represented the Comptroller. Mr. Baty stated to the directors there present the result of the negotiation with the Third
119 National Bank. He said in effect that the Third National Bank, if there was a merger between it and the Manufacturers Bank, would assume the depositors' liability of the Manufacturers Bank only on condition that the Manufacturers Bank put up $750,000 in cash. I remember in that statement that Mr. Baty made that he stated that the Third National Bank would not take over the building of the Manufacturers National Bank; that that building was a part of their rejected assets. They made a list of the assets consisting of two columns. One column "Accepted" and one column "Rejected." The accepted assets did not total enough to cover the deposited liabilities so that the Third National Bank would feel secure in taking them without adding $750,000 in cash. In the rejected assets was the building and many items of assets. I do not remember what the rejected assets consisted of. The rejected assets were carried on the books of the Manufacturers Bank at more than $750,000. I don't know where that list went to. It was in Mr. Batey's possession the last I saw of it. Mr. Ekstrom at that meeting made quite a long discussion as to whether or not the bank would close. I can't repeat what he said. The directors there present stated that there was nothing to do except to reject the offer as they could not put up $750,000. I can't quote what was said nor can I give the substance of it. Mr. Ekstrom stated that he did not believe the proposition was equitable or fair. That was the substance of his talk and the question was presented as to whether they would vote to accept that or not. I can't tell you what was said. I have told you all I remember. Mr. Leyburn, the Chief Examiner, said that a resolution would have to be passed turning the bank over to the Comptroller or else the directors
120 of the bank would assume the responsibility entirely of opening the bank Monday morning and if it opened up no doubt it would have to close soon. I can't say that he demanded a resolution closing the bank and turning its affairs over to the Comptroller, I do remember Mr. Leyburn said that if they kept the bank open they would be keeping open an insolvent bank. I did not hear him say that they would be prosecuted for receiving deposits if they kept the bank open. This meeting started at 8:05 P. M. and the resolution was signed at 8:35. This notation on plaintiff's Exhibit 6 "Dated at Rockford, Illinois, this 14th day of June, 1931,

and signed at 8:30 P. M." I presume was made at that time. I don't know. I didn't see it written nor did I dictate it. I saw it lying on the table at the meeting. Can't say that I saw it when the meeting first convened. I don't know whether Exhibit 6 was drawn before the directors' meeting was convened. I did not say I dictated the resolution. I had reference to the other meetings. Mr. H. A. Taylor, a director, offered that resolution. It was not in his hands when I first saw it. I saw it on the desk or on the table downstairs there where the meeting was held. This Exhibit 6 recites that it was a special meeting of the Board of Directors of the Manufacturers National Bank and Trust Company, Rockford, Illinois, held June 14, 1931, at 8:05 P. M. and the first line of the body of the instrument says that a special meeting of the Board of Directors, etc. was held at the hour of 7 o'clock P. M. on June 14. I don't know which is right. I don't know at what hour the meeting was held.

I did not state on direct examination that I saw Exhibit
121 6 passed on the fourteenth of June. I did see it signed with the exception of the signature of Ekstrom. I did not see him sign it. He did not sign it that night. He stated positively he would not sign it. Chief Examiner Leyburn left the meeting that night. I don't know whether he left at the particular time Ekstrom said he wouldn't sign the resolution. He was afterwards called back to the meeting, within a few minutes. He was so thoroughly disgusted with the affairs of the meeting that he left the meeting and he said he would be at a certain place and if they wanted him they could call him, or something to that effect. They called him within two minutes after that and after he was called back all of the directors except Ekstrom signed the resolution. It is not a fact that Ekstrom signed that night after Leyburn was called back. The bank building and furniture which was an asset that the Third National Bank had rejected was carried on the books of the bank at a valuation of $592,000. I did not see the figures of what other assets were rejected. As a banker, I know there has been a general depression in and around the City of Rockford and throughout the State of Illinois generally that has depressed values to an unusual degree in the last two years. There has been a study decline in values and that decline has been most marked from 1931 to the present time. There has been a depreciation in value of the assets caused by the depression since I, as Receiver, took over the assets of the Manufacturers Bank. There has been many of the debtors of the Manufacturers Bank whose financial standing and ability to pay has been decreased since I

took over the assets of the Bank, to my knowledge; and I know that what I, as Receiver, have been able to realize
122 from the assets of the Manufacturers Bank is not any indication as to the value on June 14, 1931. The fact that the bank was closed and not a going institution depressed the value of its assets to a great extent. The good will of the Bank was gone. The thing that occurred on the 12th or 13th of June, 1931 that in any way changed the condition of the Manufacturers Bank of Rockford to any material extent was withdrawals by depositors in those two days and a growing unrest of all bank depositors was a big item. There was unrest during the 12th and 13th days of June. I can give you the figures of deposits and withdrawals on the 12th and 13th of June. There was withdrawn from the individual deposits on June 12, 1931, $1,083,770.15 and there was deposited to the credit of individual depositors the sum of $1,011,881.49 and on the 13th day of June there was withdrawn by individual depositors $1,064,303.71 and during that day there was deposited by individual depositors $82,097.85, and in the savings deposits of the 12th of June there was withdrawn $4843.88 and $361.37 deposited. And on the 13th of June there was $19,933.16 withdrawn and $2102.53 deposited. Cashier's checks cashed on June 12, $1580.33 and the ones issued on that day were $2220.59 and on the 13th day of June the cashier's checks cashed amounted to $8983.43 and those purchased amounted to $2092.92 and there was only a change of twenty-five cents on the 12th and 13th of June in the Postal Savings Account. In the Thrift account on June 12th there was $140.00 withdrawals and $61.50 paid in. On the 13th there was $58.00 withdrawn and $20.25 deposited. There was no change in the vacation club account. Calling your attention to Plaintiff's Exhibit 6 again, apparently there is a line drawn through certain words in the second paragraph of
123 that resolution. That does not refresh my recollection as to anything that took place there during that meeting. I do not know who erased those words. I don't know whether the erasure was made before or after the paper was signed. The matter of striking those words did not come up before that meeting to my knowledge. I don't know who struck the words out or when it was done. The Security Bank failed to open its doors nine o'clock Monday morning, June 15. The Manufacturers Bank did not open its doors on the morning of June 15. It was in the hands of the Comptroller at that time. The Peoples Bank and Trust Company of Rockford, Illinois, closed an hour or so after they had opened on the fifteenth. Since that time and during the time that I

have been attempting to liquidate the assets of the Manufacturers Bank, the Rockford National Bank, the largest bank in Rockford, closed its doors; and also another large bank, the Forest City Bank. Since I was appointed Receiver there have been five bank liquidations going on in Rockford and that has had a good deal to do with the depression of values in the City of Rockford. Many people who were stockholders and borrowers in some of these banks were involved in other banks. I cannot tell you what is the book value of the assets I, as Receiver of the Manufacturers Bank, have on hand. I don't have anything from which I can refresh my recollection. The daily statement for June 13, 1931 shows the book value of all assets of the Manufacturers National Bank of Rockford, on June 13, 1931. I produce the financial statement of the Manufacturers National Bank at the close of business on June 13, 1931, as reflected by its books.
124 This statement shows resources of $5,315,378.81 and resources are composed of the items that are listed above that figure. Among the items appear clearings of $39,546.25. That is items on other banks in Rockford that were due from the other banks to the Manufacturers National Bank. It means checks on other banks in Rockford that were deposited in the Manufacturers Bank that day and did go through the clearing house to the respective banks on the following day. And the liability side of this financial statement shows a total, including capital of $500,000, surplus of $200,000, undivided profits of $49,810.54 and reserves of $8721.60 and the other items listed therein, of $5,315,378.81. These four papers which I produced and which are marked Defendant's Exhibits 1, 2, 3 and 4, are the daily statements of the cash condition of the bank of the dates June 1, 6, 12 and 13, 1931. I also produce a paper which is a copy of the original financial statement of the Manufacturers National Bank at Rockford, Illinois, at the close of business on June 13, 1931. This is a copy of the financial statement of the Bank as shown in the Receiver's receipt as prepared by the National Bank Examiner. It represents the condition found by him as of the close of business of the Manufacturers National Bank and Trust Company on June 13, 1931. This paper that I refer to is Defendant's Exhibit 5. I have complete records of the bank showing the number of checks that were paid and honored by the Manufacturers National Bank on June 12 and 13, 1931, but I do not have them here in Court. I cannot from recollection approximate the number of checks that were honored on those days or approximate the number of deposits that were made on those two days. I will make such compu-

tation from the records. I have in my possession other
125 ledger accounts of the Manufacturers National Bank with the Mechanics Universal Joint Company besides Plaintiff's Exhibit 3. I have the ledger sheet showing the savings account of the Mechanics Universal Joint Company with the Manufacturers National Bank of Rockford, but I do not have it in Court. I will produce it before the case closes. I produced a ledger account between the Mechanics Universal Joint Company and Manufacturers National Bank for a period preceding Plaintiff's Exhibit 3. The paper I produced is marked Defendant's Exhibit 6 and this Defendant's Exhibit 6 truly reflects the whole balances, the dates of deposits and withdrawals and the balance that results from those deposits and withdrawals during the period from January 8, 1931 down to April 16, 1931. According to Plaintiff's Exhibit 3 there was a deposit made by the Mechanics Universal Joint Company with the Manufacturers National Bank of Rockford on June 8, 1931. The amount of that deposit was $44,617.21 and with that deposit there was a balance then to the credit of the Mechanics Universal Joint Company with the Manufacturers National Bank of Rockford, at the close of business on June 9, 1931, of $107,791.08. That balance would not include a savings account of the Mechanics Universal Joint Company if there was one at the bank. I have the sheets of the ledger account of the Manufacturers Bank with Eric Ekstrom. On June 13, 1931, the balance due Eric Ekstrom on his checking account was $1413.38; and in addition to that on June 13, 1931, E. S. Ekstrom had on deposit in a savings account with the Manufacturers National Bank, a balance of $736.89 and also another one of $294.73.

126 The witness, L. B. ACHOR, the plaintiff, being further cross-examined by Mr. Early, representing defendant E. S. Ekstrom, testified as follows:

The E. S. Ekstrom referred to throughout my examination is the same person as Eric Ekstrom, the defendant. With reference to Mr. Ekstrom's direct liability of $53,000.00 that I testified about yesterday, there was collateral to secure that. He had assigned his interest or equity in what is commonly known as the Grand Hotel, located on Broadway in Rockford, Illinois. The property was subject to a mortgage in the neighborhood of ninety or one hundred thousand dollars.

L. B. ACHOR, on redirect examination, conducted by Mr. Hall, testified as follows:

I have talked with Ekstrom about the Grand Hotel.

Q. What does he say?

Objected to unless he states the time. Overruled. Exception.

Objected to by Mr. Kenworthy on behalf of Mechanics Universal Joint Company as immaterial.

The Court: Admit the conversation as to Ekstrom but not as to the Universal Joint Company.

Exception.

A. The substance of his conversation was that his equity was gone in the property.

Q. Have you been able to realize a nickel on that property?

Objected to. Overruled. Exception.

A. I have not.

Under the plan that was in operation at the Manufacturers National Bank on and prior to June 13, in order to withdraw savings accounts a pass-book should be presented to the bank and a withdrawal slip made out. The teller would compare the savings pass-book with the bank's ledger card and enter the withdrawal on the customer's pass-book. It would have a verifying mark on it of some kind which would be an indication to the teller that it had been checked up by the sav-
127 ings teller and it would then be presented to the paying teller's window for cash. That usually requires the personal attention of the person who had the account or some authorized person. It could have been done by mail. The capital of the Manufacturers National Bank was $500,000, surplus $200,000 and approximately $47,000 of undivided profits at the time the bank suspended and there were reserves of six or eight thousand dollars. In stating on yesterday that when the Third National Bank required $750,000 put up and I deducted from that amount the amount as shown by the books of the bank which the building and furniture and fixtures were charged, it left $157,803 discarded assets. That is not the fact. The fact is that in that computation the capital, surplus, undivided profits and reserve accounts had all been wiped out so that the difference between the bank as it stood and as shown by its books and the offer of the Third National Bank was $1,500,000 and if one would

take out the amount at which the building and fixtures were carried the difference would be the discarded assets.

Q. Since you have been Receiver, had you had an opportunity of any kind to dispose of that building or convert it into capital?

Defendants object. Overruled. Exception.

A. I have not.

At the time Mr. Baty stated to the directors of the Manufacturers National Bank at the meeting that occurred about 11 o'clock June 12 that there was a contract between the Security National Bank and the Swedish-American Bank, Mr. Baty said that it depended upon a thorough examination of the assets of the Security National Bank by the representative of the Swedish-American Bank. When I stated on cross-examination that Mr. Baty when he first came to Rock-
128 ford on the 11th of June, 1931 and was told something of the condition of the Security Bank that he said to me "What will that do to you?" that conversation was in a room at the Faust Hotel in Rockford when Mr. A. R. Floberg, the President of the Manufacturers Bank was present.

Q. What did Mr. Floberg say, if anything, in reference to that question?

Defendants object as hearsay and not the best evidence. Overruled. Exception.

A. He said "I don't know" or substantially that. There is such a term used by bankers as "free cash". That means cash readily available, unpledged, either in hand or readily obtainable. When I stated on yesterday that the cash in banks and cash items of the Manufacturers Bank on June 12, or 13, amounted to $825,202.31, I have since that time broken down those items so that I can tell what they are.

Q. Can you tell the Court how much cash, free cash, the bank had on hand June 13, 1931?

Objected to as calling for the opinion and conclusion of the witness and not a statement of fact. Overruled. Exception.

A. Free cash, actual cash in bank, currency, gold, silver and government bonds and coupons which were termed as cash, $207,414.45; included in the item of $825,000 which I testified to on yesterday there was an item of $75,000 cash which was set aside as the examiner compiled the cash to cover uninvested trust funds.

Q. Did the Manufacturers Bank have $75,000 in uninvested trust funds?

Objected to as mere conjecture on the part of the witness. Overruled. Exception.

129 A. Yes, sir. The next item that was included in that cash referred to yesterday was an item consisting of miscellaneous items which were not certain $1096.30. That might be returned items from other banks, checks drawn against insufficient funds, it might be coupons cashed which were not due, it might be any number of items which were not readily convertible into cash. That was included in the total I gave yesterday. Another item called cash were items returned by the clearing house, $2797.94. This represents items returned by other banks because they would not pay checks which had been sent through the clearing house by the Manufacturers Bank. That was carried as a cash item on the books. They were not readily convertible into cash. Another item of uncollected clearings on Peoples Bank $5570.40. These items represent checks taken in by the Manufacturers Bank during business on June 13 which were put into the clearings and which were not paid as they ordinarily would have been on Monday, June 15, 1931, due to the inability of the Peoples Bank to pay their clearings. There was no actual cash or cash available from those items on June 13. This was included as a cash item by the bank and included in the amount mentioned yesterday. There was also an amount of $2977.81 uncollected clearings on the Security Bank which represented cash which was not available but was carried by the bank as a cash item and included in the total which I mentioned yesterday. There was a balance of Continental Illinois Bank, Chicago, $923.52. This was not readily available to the Manufacturers National Bank in Rockford on Saturday, June 13, but it represented actual cash that ought
130 to come to the bank in time. Another item due from the Continental Illinois Bank certificate of deposit for $250,000. That was carried as due from that Bank. Their certificates of deposit were pledged and held by the City Treasurer of Rockford to secure his account or accounts. There was nothing in that $250,000 item on which the Bank itself on June 13 could realize any cash. The certificate was physically out of the possession of the bank. The balance due from the Union Trust Company, of Cleveland, Ohio, of $294.05 was a balance due from the Trust Company to the Bank and when it could be gotten to Rockford it was available as cash. Item, balance reserve account $220,181.81 was due from the Federal Reserve Bank. Approximately $156,000 of notes had been rediscounted with the Federal Reserve Bank which had been forwarded to Chicago June 11 or 12. The returns from that had not been received by me. The

examiner in charge did receive advice as to what happened in Chicago after the bank closed. What happened was that $100,054.92 was actually accepted for discount by the Federal Reserve Bank and credited to the account of the Manufacturers Bank. The balance totaling approximately $56,000.00 consisted of other notes which were not accepted for discount by the Federal Reserve. They were held as collateral to the $100,000 credit which was given. When I stated on yesterday that there was $156,000 rediscounted, that was true as shown by the books of the bank but we had not received advice from the Federal Reserve Bank and if the bank had stayed open we would have got advice Monday or Tuesday and corrected that figure. To obtain the actual free cash in the Federal Reserve Bank, you would have to subtract $100,054.92 from the balance shown as due from the Federal Reserve Bank and that would leave approximately
131 $120,126.89 that was available when it could be got to Rockford from the Chicago Federal Reserve. Another item in the amount I gave is Federal Reserve Uncollected Funds $47,727.59. That sum represents items forwarded to the Federal Reserve Bank for collection and credit, but which were not available for immediate credit due to their being drawn on banks in foreign cities other than Chicago, and would be available only according to the availability schedule in the Federal Reserve Bank which states the number of days each item is available in cash in Chicago. The next item I included in cash in my testimony on yesterday was a balance due from National City Bank of New York, $2116.02. There was nothing against this and it being returned free cash when received from New York it would be available. This was also true of the Chase National Bank, New York, $7925.51. There was nothing against that cash and it would be free cash on arriving in Rockford. This is also true of the balance from Commercial Bank, St. Louis $868.57. There was nothing against this and it would be free cash when it arrived in Rockford. The same is true of the balance due from Second National Bank, Beloit, Wisconsin $308.27. That was available in cash when it was received in Rockford. To summarize my testimony there was free cash available to the Manufacturers Bank at the close of business on June 13, 1931 of $339,669.01, which was the total available cash according to those cash items. This is made up as follows: Balance
132 due Continental Illinois Bank, Chicago $923.52; balance due Union Trust Company, Cleveland $294.05; balance due National City Bank, New York $2,116.02; balance due

Chase National Bank, New York $7,925.51; balance due Commercial Bank, St. Louis $868.57; reserve balance at Federal Reserve Bank over and above rediscounts $120,126.89; actual cash in bank $207,414.45. Total $339,669.01. The bank held Government bonds to secure circulation of $200,000. These bonds had been pledged to secure outstanding circulation. They were pledged with the Treasurer of the United States. There was also $42,000 of United States bonds pledged to the Treasurer to secure postal savings. There was also United States bonds to the amount of $100,000 pledged to the Auditor of the State of Illinois to secure Trust Department. There were also $56,160 of United States bonds pledged with the State Auditor. There were also $161,800 of bonds pledged with the State of Illinois to secure state deposits. There were also bonds pledged with the Continental Illinois Bank & Trust Company amounting to $150,-861.87. These were pledged with the Continental Illinois Bank and Trust Company. There were $25,760 other bonds pledged to secure the Trust Department of the bank. There were other bonds pledged to secure a receivership account amounting to $7776.25. There were two bonds one for $5000 Cumberland County Power & Light 4½%, 1956 and $3000 Chile Copper Company 5% due 1947. This pledge was later held illegal. On June 13 they were earmarked and put away in the bank to secure a receivership deposit. Later, after the bank closed, the pledge was declared illegal. The bank held other bonds amounting to $34,760 book value pledged to secure the City Treasurer's account. They were Rockford 133 Improvement Bonds and Rockford Tax Anticipation Warrants. These were in a safety deposit box under the control of the Treasurer. The bank also held some defaulted bonds amounting to $3825.00. I would say that none of the defaulted bonds above referred to were available in cash on June 13, 1931. The bank had other bonds totaling a book value of $167,015.67. These were mostly special assessment bonds on property in Cook County, Illinois. There was a market value on those bonds and to the best of my knowledge the market value was approximately 40c on the dollar. I do not know the par value of the bonds. On June 13, 1931 the bank had no free bankers' acceptances. All of the bankers acceptances it owned were pledged to secure the City Treasurer's deposit. On June 13, 1931 the City Treasurer's deposit amounted to approximately $1,070,000.

Q. Do you know, on June 13, 1931, whether or not it be-

came known to the people generally outside of the banking circles that the Security National Bank was in trouble?

Objected to as speculative evidence. Overruled. Exception.

A. I do not think it was generally known outside of those who were in close touch with the banking conditions.

Recross Examination of the witness L. B. Achor conducted by Mr. Kenworthy, of counsel for defendants.

In this sheet, Defendant's Exhibit 5, showing the condition of the Bank at the close of business on June 13, 1931, the items to which I referred as having been termed cash items are those included in the resources of the bank as shown by this statement. Where bonds are referred to as having been pledged, those are the bonds which I have just testified about.

At the meeting on Sunday night, June 14, at which Mr.
134 Baty said that in order to effect a merger with the Third National Bank it would be necessary for the Manufacturers Bank to raise $750,000.00 in cash. He also said it was necessary that this cash be raised before the opening of the bank on Monday morning and what the directors said was that they were unable to raise $750,000 in cash or its equivalent by opening hours on Monday. When I was breaking down the cash items in the bank, I mentioned an item of $75,000 in cash that covered uninvested funds. What I meant was that there was an item in the Trust Department known as an escrow agreement which involved approximately that much money which was not at that particular minute determined whether it was cash or whether it was actually uninvested trust funds; but in order to play safe and be sure that it was covered it was designated as applying to the Trust Department to secure that amount of money. This was cash in the bank and under the control of the bank, but because the examiner was a little uncertain as to its character he segregated it from the other cash. The cash items amounted to $1096.00 as shown on this statement were items which might be collected the next day and might not, and they were not readily convertible, although they might be in 30 days or so, some of them might never be. They were carried as a part of the assets of the bank and were considered by the officers of the bank and myself as a part of the bank's assets. The item returned from the clearing house of $2797.94 were checks returned by the clearing house on June 13. They

represented items which did not go through in the regular course of business that day. The Peoples Bank cleared all its checks on June 13 and met all its obligations on that day.
135 The uncollected items on the Peoples Bank of $5570.47 represented checks on the Peoples Bank that the Manufacturers Bank had cashed on June 13, but did not attempt to clear until June 15. And the same is true of the uncollected items on the Security Bank of $2977.81. $250,000 certificate of deposit of the Continental Bank was pledged with the City Treasurer of Rockford so that it was available to that extent to reduce the liability of the Manufacturers Bank to the City of Rockford. The Manufacturers Bank had on deposit with the Federal Reserve Bank $220,181.81 and included in that item was an item of $100,000 that represented the proceeds of the rediscount of $156,000 worth of rediscounts. This was obtained on the 13th of June and there had been deposits in the Federal Reserve Bank prior to June 13 of approximately $120,181.00. This would make a balance of approximately $220,000 to the credit of the Manufacturers Bank in the Federal Reserve Bank but there are other items, debits and credits, which would be hard to arrive at a net amount. According to the statement of the Federal Reserve Bank, the credit of $100,000 was made by that bank on June 13 to the credit of the Manufacturers Bank. The transit account of $47,727.00 represents checks that had been sent for collection by the Manufacturers Bank to the Federal Reserve Bank and when the checks were collected that amount would be credited by the Federal Reserve Bank to the Manufacturers Bank. If the items cleared according to the schedule they would be available at the expiration of about six days from the date the checks were sent. If any of the checks were not collected they would be returned to the Manufacturers Bank. That is the common practice in which busi-
136 ness is conducted with the Federal Reserve Bank. When I testified as to the amount of free cash available on June 13, I did not take into consideration all or any part of the $47,727.59. I did not take into consideration all of the $220,181.81 balance in the Federal Reserve Bank. I only took into consideration the net difference amounting to $120,126.89. I estimated that the Federal Reserve Bank would refuse to pay out $100,000 and would attempt to set that off against the $100,000 that they had advanced for the rediscounts of the $156,000 worth of rediscounts. There was no written agreement between the Manufacturers Bank and

the Federal Reserve Bank relative to their right to set off other than the letter of transmittal when the rediscounts were sent to the Federal Reserve Bank. I haven't that with me and I am unable to find it. The $200,000 United States bonds that were deposited with the Treasurer of the United States to secure the circulation were at a premium on June 13, 1931. That premium was $5883.13. The building that was owned by the Manufacturers Bank was located at the southwest corner of Second and East State Streets in the City of Rockford. State street is the main street on the east side of the City. This bank building was eight stories high. I don't remember the exact dimensions of it. It runs from the street to an alley. It faces State Street and is approximately 150 feet deep and 60 feet wide. It is a modern, fireproof building, equipped with elevators and the stories above the ground floor were occupied by offices. I think the building was erected in 1927 and was a new building at that time fully completed and completely finished on all eight stories. I don't know that it was the most modern office building in the City of Rockford. I think there were others perhaps more modern. As I recall it the building was about half
137 rented. Concerning the Special Improvement Bonds and Village bonds that I have spoken of totaling $167,000, all I know of the market was that some of the brokerage houses in Chicago made a specialty of dealing in that kind of security. There was no market for those securities in Rockford. I discussed these bonds with some of the investment dealers in various offices in Rockford. There was not much of a market for unlisted bonds anywhere at that time. I don't know whether the market value of these bonds was affected at that time by the mix-up in the taxing situation in Cook County. When I spoke of defaulted bonds I meant that possibly the interest had defaulted and maybe the principal. That amount of defaulted bonds was only $3400. By bankers' acceptances I meant a written obligation signed by some maker and it is accepted or endorsed by a bank and is floated upon the market principally upon the strength of the endorsement or acceptance of the bank. Usually they are prominent outstanding banks over the country that make a habit of accepting paper of this character. What I mean is principally drafts that have the endorsement or acceptance of some bank guaranteeing the payment provided in the draft. All of the bankers acceptances which were purchased by the Manufacturers Bank were pledged to secure the City Treas-

urer's Account and they off set the City Treasurer's Account. In fact the collateral to the total city deposit was slightly in excess of the amount of the deposit.

The witness L. B. ACHOR, on redirect examination of Mr. Hall, counsel for plaintiff, testified:

At the meeting of the Manufacturers Bank Sunday night, June 14, when Mr. Leyburn, the Chief National Bank
138 Examiner for this District was present, I heard a conversation between the Directors of this Bank and Mr. Leyburn when Mr. Ekstrom was present. But I have told you all that I can remember of that conversation. There was a general discussion there as to whether the bank should be opened or not or whether it should be closed or not, I just can't recall. Some director thought the bank should be open. I think Mr. Ekstrom thought the Bank should be open the following morning. As I recall it he asked Mr. Leyburn if the bank was solvent if it should not open and Mr. Leyburn's quick remark was "You are a director of the bank, you should know more about it than we do; answer that yourself." Leyburn further said "I am telling you the bank is insolvent. If you open it you know the consequences." I remember Mr. Ekstrom said he believed the bank was solvent; that he did not believe it was insolvent and thought it could meet the ordinary demands upon it or that would be put on it on Monday morning. This conversation took place before the resolution was passed. I have the original or certified copy of the certificate of the Comptroller declaring the bank insolvent and appointing a Receiver of the Bank. The paper I produce which is marked Plaintiff's Exhibit 13 is that paper.

EXHIBIT 13 is offered in evidence.

The defendants object. Overruled. Exception.

I do not know to what extent the Manufacturers Bank Building was occupied on June 13. There were offices on each floor above the banking house on each side of a hallway.

Recross examination of the witness L. B. Achor by Mr. Kenworthy, Counsel for Defendants.

I cannot repeat the words that Mr. Leyburn used in his conversation with Mr. Ekstrom on Sunday night, June 14;

but I assume what he inferred was that the directors
139 would probably be held criminally liable if they opened the bank on Monday morning for receiving deposits when the bank was insolvent.

W. E. GUSTAFSON, a witness on behalf of plaintiff, in answer to interrogatories proposed to him by Mr. Hall, counsel for plaintiff, testified as follows:

I am connected with the Mechanics Universal Joint Company. I am Assistant Secretary and Treasurer and have been so connected for about two years and was so connected on June 12 and 13, 1931. I have been subpoened to bring here the cancelled checks drawn on the Manufacturers National Bank for June 12 and 13, 1931. I have them here. I produce a check dated June 12, 1931 against the Manufacturers National Bank and Trust Company which is marked Plaintiff's Exhibit 14. The signatures appearing on that check are Mr. Ekstrom's signature and my own and in my judgment the signature signed by Mr. Ekstrom is his signature. When the check was originally made there was a stub attached to it and at the same time a carbon copy was made. Plaintiff's Exhibit 15 which you hand me is a carbon copy of the check Plaintiff's Exhibit 14, and the stub which was originally attached to it. This was kept in our files. On the carbon copy there is typewritten the date 6-12-31 and transfer of cash $42,761.12. That same entry was made on the stub of Plaintiff's Exhibit 14 before it was detached. The figures in blue pencil "To Third National Bank" and the figures "31" and "A" have been added to the carbon copy since the transaction took place. And the notation Attorney Early has cancelled check has been added since and if you take all that goes on Plaintiff's Exhibit 15 below the perforated line and add it to Plaintiff's Exhibit 14, you would have a reproduction of the original with the exception ot this writing, you would have a reproduction of the typewritten part of the stub. That was on the original stub. I
140 have brought with me the sheets from the books of the Mechanics Universal Joint Company showing the amounts which its books show were on deposit in the various banks in Rockford June 12, 1931. That paper which I produce is the paper you have marked Plaintiff's Exhibit 17. The entries in that paper were made in June, 1931 at the different

dates shown on the paper. There has been no change since June 12, 1931. On June 12, 1931 there were checks drawn against this account which were outstanding, amounting to approximately $5600. No other checks were outstanding to my knowledge so that on June 12 when this check for $42,-761.12 was drawn there was outstanding against this account the amount of checks totaling $5600, or something like that. This paper shows our book balance. Some checks were outstanding but I do not know the number of checks. After examining other records I will say that checks outstanding as shown by this paper were $5,594.16. They were outstanding on June 12 in addition to the check for $42,761.12 which is in controversy in this suit. I do not know when this latter check cleared. On June 12, 1931 a check was drawn by the Mechanics Universal Joint Company on the Security National Bank for $35,000.00, and it was signed by me and I believe also by E. S. Ekstrom. The paper I produced is marked Plaintiff's Exhibit 18. When Plaintiff's Exhibit 14 came into my hands, it was placed on my desk and I signed it and turned it over to Mr. Ekstrom's desk. That is the last I saw of it. I do not know how the check was sent to the bank but my recollection is it went in the mail. I did not see it mailed. I do not know what happened to
141 the check after I left it on Mr. Ekstrom's desk. Plaintiff's Exhibit 18 was handled in the same way. I signed it and put it on Ekstrom's desk. I could not say whether Exhibit 14 and Exhibit 18 were executed at the same time or not. I probably knew that day but I have no recollection of it now. Judging by the numbers on the check, my judgment would be that I signed Exhibit 14 first. It would be impossible to say how long afterwards I signed Exhibit 18. I did not see Mr. Ekstrom sign either of them. They were not signed by him when I signed them. I do not know whether there were other checks presented to me at the same time and which I laid on his desk or not. I have forgotten. Exhibit No. 14 is numbered 15294. Exhibit No. 18 is numbered 15310. There was one check drawn by the Mechanics Universal Joint Company between check No. 15294 and Check No. 15310. That was drawn to R. L. Emmerson and while there is a gap in numbers on the checks, there was as a matter of fact only one check drawn in between. I got no orders to draw these checks. It is not my duty to draw them. I merely sign them and Mr. Ekstrom signs them. So far as my knowledge goes there was no order given to any one or

by any one that I know of to draw these checks. Exhibit 18 was the last check drawn by the Company on June 12. When a check is made out it is entered on the check register. There is attached to Plaintiff's Exhibit 15 a piece of paper which has been marked Plaintiff's Exhibit 20. That is the order by the bookkeeper to the stenographer to draw a check. I could not state when that was made. We have no way of showing when that order was made. I could not state when the rubber stamp markings on Exhibit 20 were made. It might have been done the day the check was drawn or the day after. The stamp that is on there bears no rela-
142 tion to the day of payment; and does not necessarily have relation to the date the order was made. I am not thoroughly familiar with that. It was under the direction of the bookkeeper, Mr. W. H. Stark, but I never paid much attention to it. The bookkeeper either orders a check made in writing or verbally. I don't know how the bookkeeper orders his stenographer to make out checks.

Plaintiff offers in evidence PLAINTIFF'S EXHIBITS 14, 15, 16, 17, 18, 18-a, 19 and 20.

The sheet which I now hand you is sheet known as Journal of Disbursements which immediately follow the one marked Exhibit 19. This sheet is marked Exhibit 21. That is a record of checks that were issued on the day set opposite each particular item. This is a book of original entries. It is in the same condition now as when made. That is also true of Exhibit 18-a and 19. Exhibit 18, in order of dates, was made first. Exhibit 19, was made second and Exhibit 21 third. They follow each other consecutively.

The witness GUSTAFFSON, cross-examined by Mr. Kenworthy, of Counsel for Defendants, testified:

The sheets that I produce marked Exhibits 18-a, 19 and 21 were not records kept by me. I made none of the entries on these sheets. Indirectly they were under my supervision, but they were directly under the bookkeeper's, Mr. Stark's supervision. None of the entries on Exhibits 16 and 17 were made by me. They were made by Mr. Stark. No part of Exhibit 20 was made by me. The handwriting on it looks like Mr. Stark's. I have no familiarity with the rubber stamp marking on Exhibit 20. I am familiar with the system that was employed by the Mechanics Universal Joint Company,

of preparing or of keeping blank checks during June,
143 1931. In order to eliminate the writing of a lot of checks,
we would issue a check with the exception of the amount when the first invoice came in for payment and enter upon that check, on the lower part of that check, the invoice date and the amount and as invoices came in for payment they would be entered on the lower part of the check in the invoice date and the amount and when the date of payment came due a check would be drawn for the full amount of all of the items appearing on the lower part of that check. By that I mean that the lower part of the check was a voucher and that explained the invoices for which the check itself was eventually drawn. These checks came to us in pads, consecutively numbered. The name of the bank on which the check is drawn was not printed on the check. At the time the body of the check itself was made out, we stamped in the bank on which it was drawn so our blank checks were all in one form and it was not known until the check was drawn out, that is, the body of the check itself, exclusive of the voucher, on what bank the check would be drawn. The bookkeeper determined on what bank the check would be drawn. I had nothing to do with that. To illustrate, if the Mechanics Universal Joint Company received an invoice from one of its customers on the first day of June that was not payable until the 15th day of June, upon receipt of that invoice a blank check would be drawn out from the pad and the bookkeeper would enter on the voucher portion of the check that invoice, but nothing would be done to the check itself at the time. And if, between the first of June and the fifteenth of June other invoices came in from the same customer, they would also be entered on the voucher and if the payment was to be made on the
fifteenth then the total of all the entries upon the voucher
144 would be figured and that amount, together with the
name and the date would be put on the check and a stamp would be made as to the bank on which the check was drawn. That was all done before the check was signed. In the illustration I gave, the check and the voucher would be filed away between the first day of June and the date when the check was made out, in the customer's file, or rather, in the accounts payable file. At the same time we made out an original voucher and check we also made out a carbon copy of the voucher and check and both the original and the carbon copy were filed in the accounts payable file. When the check was sent out the carbon copy was kept for our files.

By the Plaintiff: Exhibit 16 is withdrawn and all testimony concerning Exhibit 16 was ordered stricken by the Court. Exhibit 17 states at its head that it is a bank statement in account with the Manufacturers National Bank in the month of June, 1931. During the month of June, 1931 the Mechanics Universal Joint Company also did business with the Security National Bank, the Third National Bank, the Rockford National Bank and a savings account in the Peoples Bank & Trust Company in addition to the Manufacturers Bank. That is, the Mechanics Universal Joint Company was using for commercial accounts all of the banks above mentioned but the Peoples Bank & Trust Company. The accounts kept by the Mechanics Universal Joint Company during the month of June, 1931 with the Third National Bank are shown by Plaintiff's Exhibit 16, which has been withdrawn by the Plaintiff. The account kept by the Mechanics Universal Joint Company with the Rockford National Bank I produce and the same is marked Defendant's Exhibit 7; and the account with the Security National Bank is marked Defendant's Exhibit 8. DE-
FENDANT'S EXHIBITS 7, 8 and PLAINTIFF'S EX-
145 HIBIT 16 are offered by defendant and admitted by the Court.

MR. H. P. HELM, a witness produced by the Plaintiff, testified as follows:

I live in Rockford, Illinois and was Assistant Cashier and Note Teller of the Manufacturers National Bank and Trust Company at the time the bank suspended. I signed drafts, cashiers checks, certificates of deposit, certified checks and as note teller I performed the usual duties of a note teller, took charge of the notes, collateral and of note cage records. Since the suspension of the bank I have been employed by the Receiver as a clerk and am employed now. The sheaf of papers which you hand me and which are marked Exhibit 22, consisting of 18 slips of paper, are a list of checks in detail that came in on certain days, each ticket is dated and also cancelled, paid, on the same date and is a sum total of the checks charged to the account of the Mechanics Universal Joint Company, on the respective days. If one would take these checks in detail for any given date, the detail of checks as shown on this list would correspond to the totals shown on Plaintiff's Exhibit 3. In my employment with the Manu-

facturers Bank, I made all the entries in the books of the Winnebago Securities Corporation with the exception of the first entries when the company was organized, and I entered as note teller the items that went against the bank records as to the notes that were out of the bank and the checks given in payment for the notes.

Q. Can you tell the Court the total amount of paper, notes taken out of the bank and put into the Winnebago Securities Corporation?

The defendant objects on the ground that the testimony already in the record shows that the transactions between the Winnebago Securities Corporation and the Bank did
146 not make the bank insolvent. Objection overruled. Exception.

A. On December 26, 1930, approximately $398,000 worth of assets were taken out of the Manufacturers Bank and purchased by the Winnebago Securities Corporation by giving to the bank notes payable at various times in total amount of approximately $300,000, together with a check drawn by the Winnebago Securities Corporation on the Manufacturers Bank where they had their account in the amount of $98,000. I can produce a list of the notes that were formerly in the bank that were turned over to the Winnebago Securities Corporation. I handled these notes while they were in the Bank. I had tried to collect those notes while they were in the Bank. I had not been able to collect those notes.

Q. Do you have an opinion as to whether those notes were readily collectible or were they slow?

Objected to by defendant as immaterial and irrelevant. Overruled. Exception.

A. In my opinion these notes were very slow assets. I had seen the reports that the Comptroller sent to the bank after each examination beginning possibly around the latter part of 1929 and 1930 and 1931. When these notes were transferred by the bank to the Winnebago Securities Corporation, in addition to paying $98,000 they gave their notes to the bank and pledged the notes they had taken out of the bank as collateral. I kept the book records of the Winnebago Securities Corporation. The total amount of notes taken out by the Winnebago Securities Corporation was $397,919.96. Up to the time of the suspension of the Manufacturers Bank $5744.13 of these notes had been collected.

Q. At the time that the bank turned over the notes to the Winnebago Securities Corporation, were any of the signers of those notes then in bankruptcy?

147 Defendants object as not the best evidence. Overruled. Exception.

A. No.

Q. Since suspension, have any of those signers gone into bankruptcy?

Defendants object as immaterial and not the best evidence. Overruled. Exception.

A. They have. The Rockford Furniture Company has gone into bankruptcy and also the Excel Manufacturing Company. The Winnebago Securities Corporation had $25,000 of notes of the Excel Manufacturing Company and nothing has been paid on those notes. A. R. Floberg was the president of the Excel Manufacturing Company and also the president of the Manufacturers Bank. The Winnebago Securities Corporation also had some notes of the Al Carlson Manufacturing Company.

Q. Was the Al Carlson Manufacturing Company in the hands of a receiver and its property sold in the receivership?

Defendants object as immaterial and not the best evidence. Overruled. Exception.

A. Since suspension we received a dividend from the Al Carlson Manufacturing Company of $5952.93. On the total amount of notes held as collateral for the note of the Winnebago Securities Corporation the bank has collected $34,885.44. This includes a compromise that was made with the Rockford Desk Company of $12,500. The Winnebago Securities Corporation had a note in that batch of collateral from the Rockford Furniture Company of $18,000. We have received $4500.00 on that. In addition to trying to collect these notes, some of them were turned over to a lawyer to put in judgment.

The witness HELM, on cross examination, in answer to questions propounded by Mr. Kenworthy, Counsel for Defendant, testified as follows:

148 The total amount of notes given by the Winnebago Securities Company to the Manufacturers Bank was $299,919.96. To secure that note the Winnebago Securities Corporation pledged $397,000 worth of securities that had been taken out of the bank and at the same time the Winnebago Securities Corporation paid $98,000 in cash. Prior to the suspension of the bank, in addition to the $98,000 in cash the

Winnebago Securities Corporation paid $10,807.59 to apply on principal and interest and in addition to that in June, 1931, $50,000 was paid. That payment was to be used to take out additional notes in the files of the Manufacturers Bank and up to a certain amount and then the balance to be used to apply on the Winnebago Securities Corporation note. That is the way we credited it. I don't know anything about the original agreement between the Winnebago Securities Corporation and the Manufacturers Bank. Out of the notes that were applied as collateral there was collected prior to the suspension of the Bank $5744.13. That is the amount that the bank collected and since the bank has suspended there has been collected out of the collateral notes $34,885.44. The three notes given by the Winnebago Securities Corporation to the bank were all dated December 26, 1930. One was for $50,000, one was for $125,000 and one was for $124,919.96. The original note of $50,000 bears endorsements showing that on February 9, 1933 there was a balance due on that note of $6902.06, so that this $50,000 indebtedness had been reduced to that amount on that date. There had been paid on this $50,000 the sum of $43,097.94. The facts are that up to February 9, 1933 there had been paid $43,097.94 on the notes of the Winnebago Securities Corporation to the Bank, and the original indebtedness of the Winnebago Securities Corporation of $299,914.96 has been reduced to $256,817.02. Of the $50,000 paid into the bank by Mr. Thompson on June 12, 1931 for and on behalf of the Winnebago Securities Corporation, only $1602.12 has been applied on the records of the Winnebago Securities Corporation. The balance was applied by taking out assets of the Manufacturers National Bank and Trust Company of $48,397.88. I was directed to make these entries by Mr. Floberg or Mr. Achor. I know nothing about it except as I followed their directions.

149

The witness HELM, on direct examination, testified as follows:

Q. At the time that the original deal was made with the Winnebago Securities Corporation to take out certain assets of the bank, was it the understanding that there was to be $150,000 paid to the Bank?

Objected to by defendant. Overruled. Exception.

A. It was my understanding that there was to be paid into

the Bank the sum of $150,000 in cash. Instead of that there was $98,000 paid and a note from Adeline Thompson, who was the wife of the Chairman of the Board of the Bank, for $50,000. When the Thompson payment was made in June, it was made to take up that note of $50,000 which Adeline Thompson had made. The additional notes of the Manufacturers Bank was turned over to the Winnebago Corporation and these notes were then held as collateral security for the Winnebago Securities Company note.

On re-cross examination MR. HELM testified as follows:

It is my understanding that when the deal was made the Securities Corporation was to put in $150,000 in cash. It put up $98,000 in cash and a $50,000 note of Mrs. Thompson, which note of Mrs. Thompson, together with the securities taken out, were held as collateral by the Bank for the $299,000 note.

150 The witness H. A. CONKLIN, recalled as a witness for the plaintiff and in answer to questions propounded to him by Mr. Hall, testified further:

I was Secretary of the corporation known as the Manufacturers National Bank and Trust Company. The paper which you hand me, Exhibit 26, is a record that I made. There was a directors meeting held on December 12, 1930 of said Bank and Exhibit 26 is a true and correct record of the proceedings of that meeting. It was made up from notes I took at the meeting. Two sheets ahead of those meetings in Exhibit 26 will be found the authority to rediscount and borrow money on collateral. That is the resolution referred to in Exhibit 26. I was Secretary and Treasurer also of the Winnebago Securities Corporation. From the minutes you produce it appears that L. C. Miller, M. J. Henchler, Charles A. Thomas, Ardath Thompson and Hazel Lynn were elected directors of the Winnebago Securities Corporation. I know Mr. Henchler, Mr. Thomas and Mr. Miller. They are a law firm in Rockford.

The plaintiffs offers in evidence PLAINTIFF'S EXHIBIT 26 and in connection with that the resolution which appears two pages ahead, identified by the witness. The resolution is marked Exhibit 26-A. Admitted in evidence as Exhibits 26 and 26A.

MR. GUSTAFSON, recalled as a witness for the plaintiff, testified:

Exhibit 28 is an original sheet from the records of the Mechanics Universal Joint Company, a sheet kept in the ordinary course of business known as the sheet from the Journal of Disbursements. It is a record of checks issued by the Mechanics Universal Joint Company. Checks are dated on the day the check was finally issued and put in circulation. Referring to Exhibit 19, that appears to be a check to Elmer Strand, City Clerk, known as No. 15331 which purports
151 to be dated 6-16-31 and the check before that is dated 6-13-31, and the check below that is dated 6-13-31. I do not know how this happened to be. As to the other checks in this exhibit which appear to be dated 6-13-31 and some 6-15-31 and some 6-16-31, to the best of my knowledge those are the dates when the checks were passed out in circulation.

Plaintiff offers EXHIBIT 28 which is admitted. Also EXHIBITS 18-A, 19 and 21. Also EXHIBIT 22 and 22-A.

L. B. ACHOR, the plaintiff, recalled as a witness for the plaintiff, testified as follows:

When I was employed by the Directors of the Manufacturers National Bank and Trust Company in February, 1931, there were present H. A. Taylor, A. R. Floberg, Hugo L. Olson, F. F. Nelson, K. E. Knutzen and I think Mr. Ekstrom was there, I am not certain.

Q. What was said at that time with reference to employing you and what would be your duties?

Objected to by defendant as immaterial and irrelevant. Overruled. Exception.

A. Mr. Floberg said one office duty would be that I become President of the Winnebago Securities Corporation which will require some attention to liquidate collateral assets, etc. which have been taken out of the bank and placed in the Winnebago Securities Corporation. My other duties he said were to be fitting of the Vice President of any Bank with particular reference to attention to loans and discounts. After I was employed by the Bank I wrote various letters with reference to the Winnebago Securities Corporation notes, called them by telephone, had them come to the bank, asked them for se-

curity, I went out to their places of business, placed a
152 number of items in the hands of attorneys. In several cases judgment was taken. I know Ralph Thompson. I have seen Ralph Thompson with Exhibit 25 in his hands. E. S. Ekstrom was present at one time with him, Oscar Milburn at another and several of the directors at different times. At the time Mr. Ekstrom was talking to Mr. Thompson, I saw Exhibit 24 there. Thompson was reviewing it and asking Ekstrom questions about it. In that conversation Ralph Thompson listed the loans of the directors from the bank and he asked in substance of Mr. Ekstrom what the chances were of him paying his loan. I don't remember what Ekstrom said. He did not pay any of his loans. That was a few days after the first day of June, 1931. I would say Ekstrom and Thompson talked approximately thirty minutes. When I testified in my former examination as to an authority from the bank to rediscount and endorse or rediscount paper to the Federal Reserve Bank I had reference to the resolution which is marked here Plaintiff's Exhibit 26-A. All the paper that was passed on to the Federal Reserve Bank for rediscount about which I testified as endorsed by the bank.

Being further cross-examined by the defendant, the witness ACHOR testified as follows:

This talk that I testified to between Mr. Thompson and Mr. Ekstrom took place in the bank prior to the 12th day of June, 1931. Thompson was not a director of the bank. He was a son of the Mr. Thompson who has formerly been chairman of the Board. Thompson said it appeared to him that as the report sheet showed that 31% of the total loans and discounts were loans to certain of the directors and their concerns that one of the first places that the bank should look for assistance was the directors and their corporations. The Mechanics Universal Joint Company did not owe the bank any money.

There was no talk about how this 31% was arrived at.
153 On June 2, 1931, there was a savings deposit of the Mechanics Universal Joint Company in the Manufacturers National Bank and Trust Company of $10,000. That remained in the bank until the bank closed.

Plaintiff Rests.

DEFENDANTS' EVIDENCE.

W. H. STARK, a witness produced by defendants, in answer to interrogatories propounded to him by Mr. Kenworthy, of Counsel for defendants, testified as follows:

I live in Rockford and am bookkeeper employed by the Mechanics Universal Joint Company and have been such for fourteen years continuously. Was bookkeeper continuously during the month of June, 1931 for that company. My usual duties were to make out all statements for the company, monthly statements, check on invoices, approve them for payment and pay them on certain pay dates or in between dates whenever I deemed it necessary. These invoices were paid by check. Also it was a part of my duties to deposit money in whatever bank I saw fit or withdraw from any bank or draw checks on any bank. During the month of June, 1931 the Mechanics Universal Joint Company were depositing money and drawing checks against deposits in Rockford Banks as follows: The Security National Bank, Swedish-American Bank, Third National Bank, Manufacturers National Bank and Rockford National Bank. These were all located in the City of Rockford. I was the officer of the Mechanics Universal Joint Company who would determine where and in what bank the deposits would be made. I received no special directions from anybody when I made the various deposits. I used my own discretion as to where and in what bank to make deposits. I tried to keep the bank balances as nearly equal
154 as possible. With reference to my practice prior to June 13, 1931 as to transferring money from one bank of these five banks to another of the five banks, I would say we would get checks as high as forty, fifty or sixty thousand dollars from one customer and that would have to be deposited in one bank and naturally we would have to issue our check to transfer it to another bank. We did that right along. I was the person who determined when those transfers should be made. When our company received a check from its customer for a large amount of money I would put it in one bank and if the checks we had to draw would not reduce it to any considerable amount, we would issue our check for cash to transfer to another bank. All our checks were the same. They were all in the same form and prior to being made out they would not have the name of the bank on which they were drawn printed on them. During the month of June from June 1 to

June 15, the checks that we made out to pay our current obligations were made out in this manner—we had certain pay dates to pay checks, net invoices being paid the fifteenth of the month following. These were being drawn as the invoices were being listed, posted to accounts payable and listed on the bottom of the checks. Any checks drawn in between that were taken off the same pad. The day of payment of the net invoices for which we would receive invoices the first day of June or which in my opinion would be June invoices would not be paid until the fifteenth of July if it was a net invoice. The invoices that came in during May would be payable on the fifteenth day of June. And we would start making out the checks that we expected to issue to pay our May invoices on the first day of May. Plaintiff's Exhibit 18 which you
155 hand me is as to its printed form the general form of check that the Mechanics Universal Joint Company used during the month of June, 1931. It has a perforated line at the bottom of the check and below that a voucher. When we received an invoice that was payable on the fifteenth of June, we received that invoice during the month of May and if it was a net invoice, that is, not subject to discount, I would give this invoice to one of my girls and she would post it on the account payable sheet of our books and also make or draw a check and post the invoice on the bottom of the check, subject to more invoices coming in before the June pay date. The only part of the check proper that would be filled in would be the name of the payee and the date of payment. That is, if the invoice would be payable on the fifteenth of June we would date the check the fifteenth of June and this would be done during May and we would also write in the name of the payee. Then as the various invoices came in prior to the last day of May, these would be entered up on the invoice or voucher check below the perforation. I did not have charge of the payroll except the private payroll. The account in the Security National Bank was used for private payroll and the account in the Third National Bank was used for factory payroll during the month of June, 1931. It was part of my duties to maintain the balance of the payroll account to meet the payroll checks and the manner in which I did that was that the timekeeper would give me the total amount of the payroll for that period and I would issue a check for approxi-
156 mately that amount from our checking account in any bank to the payroll account in the Third National Bank. I have seen the check which you hand me that has been marked

Plaintiff's Exhibit 14 as well as Plaintiff's Exhibit 15 and a paper marked Plaintiff's Exhibit 20. Plaintiff's Exhibit 15 is a duplicate of Plaintiff's Exhibit 14. It was made at the same time. That is a record to be kept in our files as a record of the transaction. When Plaintiff's Exhibit 14 was issued, it had on it a voucher that does not appear there now. I have a recollection of the filling out of the check marked Exhibit 14. The check was filled out and typewritten by my stenographer, Miss McGuire. I ordered Miss McGuire to make out this check by writing her a note and Plaintiff's Exhibit 20 is the order that I gave to her for the preparation of that check. I gave this to her on June 12, in the morning of that day. Prior to delivering Plaintiff's Exhibit 20 to Miss McGuire, I had not had any conversation with Eric Ekstrom or any other officer of the Mechanics Universal Joint Company with reference to the drawing of a check for $42,761.12 or any other amount prior to issuing this order as shown by Plaintiff's Exhibit 20; nor had I received any communication in writing from any officer of the Mechanics Universal Joint Company with reference to the preparation of this check, Exhibit 14. Nobody but myself determined that this transfer was to be made and no communication was made to me concerning it by any one. My reason for issuing this check was only to transfer cash from one bank to another.

Q. Did you issue this order to your stenographer in the regular course of business as bookkeeper of the Mechanics Universal Joint Company?

Objected to by Plaintiff. Sustained. Exception.

157 I have a record of the amount of money that was on deposit in each of the five banks that the Mechanics Universal Joint Company did business with. I make up a daily bank balance. I have with me the original checks which were made out by me or under my supervision to pay the net bills of the Mechanics Universal Joint Company on the fifteenth day of June, 1931. I produce a bundle of 82 checks all bearing dates either the 13, 15 or 16 of June most of them bearing date the 15th of June, and all these were prepared under my supervision in the regular course of business of the Mechanics Universal Joint Company.

The Plaintiff objects to that portion of the question which includes "in the regular course of business." Objection sustained. Exception.

These checks in this bundle of checks were all made under my supervision during the months of May and June, 1931

and they were made to meet the net payments of the invoices which were payable on June 15, 1931. They were all signed and issued to the payees named therein, respectively. The name of the payee and the date were put in as each check was made. This was done by my stenographer under my supervision and when they were mailed they each had attached to them the invoice below the perforation at the bottom of the check proper. These all now appear to the removed. The payee keeps them for their reference so they would know what bills were paid by the check and the return checks with the invoices torn off were returned to us in the condition in which the bundle of 82 checks appears. All the checks in this bundle which bear date June 16, 1931 were issued in payment of freight bills. They are 7 in number and those 7 were made out on the 16th of June. The three checks in that bundle
158 dated June 13 were all payable to cash and drawn on the Third National Bank. Those were all made out on the 13th day of June and there were four checks, each dated June 15, 1931 which were made out on the fifteenth of June. Now the balance of the checks are all net checks and they were made out or written between May 1 and the last day of May, and the date of the check June 15 was put in at the same time as the pay date of the check. On all of these checks in this bundle I find a sticker pasted on to the checks containing the name of the bank on which they were drawn. By holding these checks up to the light I can see that these checks were originally drawn on the Security National Bank, Rockford, Illinois. The words "Security National Bank, Rockford, Illinois" were placed on those checks prior to June 15, probably on the Friday or Saturday before. All the checks in this bundle that are dated June 15 were mailed on that date. The reason why the sticker to the Third National Bank of Rockford, Illinois was pasted over the name of the Security National Bank that had been stamped on the check previous to the sticker was that the Security Bank did not open June 15, so we had stickers printed to draw them on another bank rather than write the checks all over again. The bundle of checks concerning which I have been testifying is the bundle of checks that has been marked Defendant's Exhibit 9.

DEFENDANT'S EXHIBIT 9 is offered by the defendant and admitted by the Court.

After I gave the direction shown by Plaintiff's Exhibit 20 to my stenographer, she returned to me Plaintiff's Exhibit 14 which did not at that time contain the signatures that now

appear thereon. I don't think I delivered this check to
159 Mr. Gustafson and Mr. Ekstrom for their signatures. I think my stenographer did. After the check was signed, I pinned a deposit ticket to it. I made out a deposit ticket and also a duplicate. Defendant's Exhibit 10 is a carbon copy of the deposit slip that I made out after the check was signed. This copy was made at the same time and by the same operation as the original deposit ticket with a carbon paper between the two. I attached the original deposit ticket to the check and I gave the check to my stenographer to mail. I gave this check to her on June 12, 1931. There was a practice in our method of business at the Mechanics Universal Joint Company as to when in the day checks for deposit would be mailed out. That practice was that the morning checks would go out by the eleven o'clock mail and the afternoon checks would be taken down to the post office by our mail boy at 4:30. I have no recollection of the time of day that I delivered plaintiff's Exhibit 14, to which was attached the deposit slip, Defendant's Exhibit 10, to my stenographer, whether in the morning or afternoon of June 12. At the time that I directed my stenographer to make out this check, plaintiff's Exhibit 14, I did not know anything about the condition of the Manufacturers Bank of Rockford. I had heard no rumors concerning it. The reason I made this check for $42,761.12 is that I tried to remember a check that I had deposited down there a few days before, a large check from one of our customers and I thought I remembered the amount. I have verified that since and I find that it was not made for the exact amount. My purpose in making out this check was to equalize the deposits in the banks to keep a little more in the Third National on account of our drawing our payroll on it. I had no other pur-
160 pose than the equalizing of deposits in the various banks in so doing. I gave my stenographer no special directions as to where to mail this check as she could tell from the deposit ticket where to mail it. Plaintiff's Exhibit 2 and Plaintiff's Exhibit 8 I have seen before. They are in my handwriting. I have no distinct recollection of the transaction. It was a matter of routine. The number on the deposit ticket indicates to me that this deposit slip Defs. Ex. 8 was made out before Plf's Ex. 2. Plaintiff's Exhibit 11 which is pinned to Plaintiff's Exhibit 8 contains figures prepared by me or under my direction. The deposit slip Plaintiff's Exhibit 8 was pinned to the checks which were going to the Third National Bank described in this deposit ticket. Plaintiff's

Exhibit 16 is a sheet where I kept the bank balances also notation of the outstanding checks. This sheet was prepared by me and in the course of my duties as bookkeeper of the Mechanics Universal Joint Company. It is a record of the balance of what was in the banks after drawing our checks. It shows the total drawn for the day against the deposits for the day and the balance. Plaintiff's Exhibit 17 is one of the record kept in the ordinary course of our business. It shows the deposits and the total of the checks drawn for the day and the balance with the Manufacturers National Bank. Defendant's Exhibit 8 is one of the records kept by me as bookkeeper of the Mechanics Universal Joint Company. It is a record showing deposits and total of checks drawn; also balance on hand in the Security National Bank. Defendant's Exhibit 7 is also one of the records of the Mechanics Universal Joint Company kept by me in the regular course of business. It is a record of deposits and total of checks drawn and the balance on hand in the Rockford National Bank. I had to do
161 with the withdrawals of savings accounts in the Manufacturers National Bank. That is, I was always along when any was withdrawn. When checks were drawn such as I have identified here, they were drawn against the Commercial account and not the savings account in the Manufacturers Bank. I have seen Plaintiff's Exhibit 18, a check for $35,000 drawn on the Security National Bank. I saw that on June 12, 1931; that was made out at approximately the same time as Plaintiff's Exhibit 14. It was all done on June 12, 1931 at substantially the same time. I do not seem to find in my files any order that I gave to the stenographer to make out the check which has been numbered Plaintiff's Exhibit 18. I have before me a record of the Mechanics Universal Joint Company which states the balance that the Mechanics Universal Joint Company had on deposit with the Security Bank of Rockford on the morning of June 12, 1931. On that morning they had a balance of $100,033.55. This is shown on Plaintiff's Exhibit 8. At the time the Mechanics Universal Joint Company had in its commercial account with the Manufacturers Bank on the morning of June 12 a balance of $63,244.30 and on the morning of June 12, 1931 the Mechanics Universal Joint Company had on deposit in the Third National Bank of Rockford in its commercial account a balance of $3838.71. That is shown by Plaintiff's Exhibit 16; and on the same morning of June 12, 1931 the Mechanics Universal Joint Company had on deposit with the Rockford National Bank in its commer-

cial account the sum of $10,834.71. I had no talk with any officer of the Mechanics Universal Joint Company with reference to my drawing the check for $35,000 shown by
162 Plaintiff's Exhibit 18. The reason I drew that check was to transfer $35,000 from the Security National Bank to the Rockford National Bank and my purpose was to equalize the balances in the bank. When I directed that check to be drawn, I had no knowledge of any kind of the condition or reputed condition of the Security National Bank of Rockford. After Plaintiff's Exhibit 18 was signed, I think I made a deposit ticket and pinned it on there. I do not have the original deposit slip or ticket but I have the duplicate of it. This is defendant's Exhibit 11. The rubber stamp marking which appears on Defendant's Exhibit 11 was not on there when I made it out.

DEFENDANT'S EXHIBIT 11, with the exception of the rubber stamp marking on the same, admitted in evidence.

When I made out the check, Plaintiff's Exhibit 18, and the deposit slip, Defendant's Exhibit 11, I made them out on the date that they each bear—June 12, 1931. After the check, Exhibit 18, was signed, I pinned the deposit slip thereon and gave them to my stenographer to mail. I remember when we got the stickers marked Defendant's Exhibit 9, the stickers bearing the words "To the Third National Bank, Rockford, Illinois, 70-40". We got those on the afternoon of June 15. Mr. Gustafson, the bookkeeper, had them prepared. When I made out the check, Plaintiff's Exhibit 18, and when I made out the checks in the bundle of checks marked Defendants' Exhibit 9, I expected those checks to all be paid through the Security National Bank. The balances that would be in the four banks, namely, the Rockford National Bank, the Third National Bank, the Manufacturers National Bank and the Security National Bank, after the checks in the bundle marked Defendant's Exhibit 9, and the checks marked Plaintiff's
163 Exhibit 14 and Plaintiff's Exhibit 18, if those checks had been paid as originally drawn would be as follows: Our balance in the Third National Bank would have been $34,537.86; in the Manufacturers National Bank $20,034.12; the Security National Bank $31,787.97, the Rockford National Bank $33,952.61. The amount I have just given in the Manufacturers National Bank does not include our savings account there. The amounts given above are the commercial balances, or balances in commercial accounts. By referring to the Exhibits before me, I can state what amount was deposited by the Mechanics Universal Joint Company to its commercial

account with the Manufacturers National Bank on June 6, 1931. That deposit was $44,617.21 and that made the balance of the deposit of the Mechanics Universal Joint Company in the Manufacturers Bank on June 6, 1931, $106,592.89. That is shown by plaintiff's Exhibit 17. When I drew the check for $42,761.12, Plaintiff's Exhibit 14, I had in mind the deposit of $44,617.21. That was deposited on June 6 and I had in mind transferring over to the Third National Bank that amount. I did not get the figures exactly right. Substantially the same only I have a "42" instead of a "44" and the figures are turned around. When I gave directions for the withdrawing of Plaintiff's Exhibit 14 I gave the figures to my stenographer from memory. Referring to the rubber stamp on the back of Plaintiff's Exhibit 20, I am familiar with that stamp and there was a custom or practice of the bookkeeping department with reference to stamping papers of that character in our plant during the month of June, 1931. The
custom was that after all checks are drawn, whether they
164 are invoices or what there is attached to the voucher, the
girl the following day the checks are drawn posts them to the ledger and after she is through posting she takes this stamp and stamps everything so that in case it comes loose from the voucher it will not be paid again. The posting would be done the day following the day the checks were drawn.

The witness W. H. STARK, being cross-examined, in answer to interrogatories propounded to him by Mr. Hall, testified as follows:

I am thirty-eight years old. Prior to June 31 had been bookkeeper of Mechanics Universal Joint Company for about ten years.

Q. What salary did you receive?

Objected to as immaterial. Overruled. Exception.

A. $225.00 a month. My desk was probably 100 feet away from the desk of the President, E. S. Ekstrom. He had a private office. I sat out in the open office. I cannot remember that I saw Mr. Ekstrom June 12, 1931. Could not say whether he was around the place or not. I remember I had no talk with him. I imagine I talked with Mr. Gustafson, Assistant Secretary, but I cannot remember anything that was said on June 12. Exhibit 20 is in my handwriting. I made that the morning of June 12. I could not tell you what time in the morning. All checks are supposed to be mailed

out from our plant in the morning. I also made out at the same time an order for the $35,000 check on the Security Bank. I don't know what has become of that. It may be around here some place among these papers but I have no explanation of why it is not pinned to the check. I have lots of duplicate checks and vouchers here. I find one here that has an order attached to it and the order is marked
165 Plaintiff's Exhibit 29. That check is dated June 16, 1931 and the order attached to it is stamped June 16, 1931. The date on which it is stamped is of no significance. Plaintiff's Exhibit 29 happens to be a check that I ordered drawn to take up a check in a hurry after the bank on which the original check was drawn was closed. I posted from Exhibit 29 at the same time that the check was drawn in order that my bank balance wouldn't show checks against two banks. Ordinarily, when banks are not in difficulty, the posting is done the following day and the stamp is placed after the posting is completed. I find one other check among a bunch of about 150 checks in the Courtroom which has an order attached to it. These are marked Plaintiff's Exhibit 30. Here the order for the check is dated the twelfth and the stamp on it is the thirteenth. I would say this check, Plaintiff's Exhibit 30, was issued in the morning. That would be our custom. That was issued to cover the cost of sending Liberty Bonds to Chicago. After Plaintiff's Exhibit 30 was issued three other checks were drawn and these three checks were put in circulation. Exhibit 30 is the fourth from the last check. Occasionally we issued checks in the afternoon. After check, Plaintiff's Exhibit 14, was drawn, I did not see it until after it was signed. I cannot say that I saw it after it was signed. When the check was drawn I made out a deposit slip. That was my business. I sent the original deposit slip with the check and kept the duplicate. I attached the original of the deposit slip to the check with a clip and turned it
166 over to my stenographer. That is, I put them on her desk which was right next to mine. At the time I ordered the check for $42,000 drawn on the Manufacturers Bank, I also ordered one drawn on the Security for $35,000.00. I imagine I ordered both at the same time. I made out tickets in the same way. We keep duplicates of each of those tickets. I cannot say, I was in no hurry when I ordered the check drawn on the Manufacturers Bank. I keep the books of the Mechanics Universal Joint Company. I cannot say where the sheet was showing deposits in the Manufacturers Bank on the 6th at that time. It may have been in the safe, I could

not say. The safe is thirty or forty feet away from my desk. I thought I remembered the exact amount of the deposit. I was in the habit of dealing with large amounts and had checks of large size. We had previous to that time, transferred money from the checking account of the Manufacturers National Bank to the Third National Bank. I cannot tell when that was done without referring to the records and I have nothing with me which would enable me to give you an answer on that. I find that previous to this transfer we had transferred money from the Manufacturers Bank to the Third National Bank, for payroll. I have here with me sheets beginning January 1, 1931 and including June 12, 1931 and during that interval I do not find that we had transferred any money from the General account of the Manufacturers Bank to the general account of the Third National Bank, although we had transferred money from the general account of the Manufacturers Bank to the Third National Bank payroll account. I cannot remember whether we had made
167 any transfer of an odd amount like this from one bank to another general account in another bank because I have no records here from which I can refresh my recollection. By odd amount I mean an amount like $42,761.12. I find no instance where we had made any transfer of odd cents or odd amounts from one bank to another. On June 10, 1931, the Mechanics Universal Joint Company had deposited in the Security National Bank $40,689.86. This deposit included 11 checks, the largest one for $38,256.42 from the International Harvester Company. The checks I had drawn on the Security National Bank and which we expected to put in circulation on the 15th amounted to $18,612.58. The total of that bundle of checks which is produced here adds up to $30,000 but among them is a check for $11,606.43 that does not have a sticker on it and was not originally drawn against the Security Bank. The Mechanics Universal Joint Company had a balance in the Security Bank, after withdrawing $35,000 of $50,400.00 and in the Third National Bank, immediately after we deposited Plaintiff's Exhibit 14, we had a balance in the Third National Bank of $47,790.75. That remained at that figure until the 16th and did not change. In the Rockford National Bank we had on deposit there just prior to the 12th of June $10,834.71 and after we deposited the $35,000 drawn on the Security we had $45,834.71. Our ordinary balance in the Rockford National Bank would run around twenty to twenty-five thousand dollars. While our balance at the time in the Rockford National was $45,000, I was drawing checks

on the Rockford National on the fifteenth and I knew I was going to draw these checks on the twelfth. Checks were in process of being made at the time. They totaled around
168 $11,000. These checks had been drawn before and I hand you the duplicate checks here. In the month of May we had a balance at the close of business in May in the Third National Bank of $4782.71 and in June prior to the day we made this deposit of $42,000 the largest balance we had at any time was $13,628.00. That was on the thirteenth of June and it remained $13,000 until the tenth when the balance dropped to $3600.00 and remained $3600 until we deposited this large check. Most of our checks from our customers come into us between the first and the fifteenth and some scattering collections came in later in the month. When these collections come in, we deposit them in whatever bank we choose and it was my aim to keep the deposit in the banks which we used somewhat equalized. In the month of June we started our balance in the Manufacturers Bank with $66,000 and maintained a balance of over $60,000 until the sixth of June and on the sixth of June we increased that balance to $106,000. We didn't equalize balances in the bank at that time because I had a lot of other work to do besides looking after the bank balances. Along about the middle of the month, when it came time to pay bills, I looked at the balances in the various banks. By making the transfers of $35,000 from the Security Bank to the Rockford National, and of $42,761 12 from the Manufacturers Bank to the Third National Bank, and by drawing the bundle of checks which I have produced against the account in the Security National Bank, the accounts in all Rockford banks made by the Mechanics Universal Joint Company would have been substantially equalized. During the month of May, 1931, we
169 started out our balance in the Manufacturers Bank with $21,000 and built that balance up on the fifteenth of May to $32,000 and from the fifteenth to the eighteenth we increased it to $57,000 and on the twenty-fifth it was $60,000. I don't know that we equalized our deposits during May. In May we withdrew $20,000 from the savings account in the Manufacturers Bank and deposited it to the general account in that bank. But the records that I have with me are not sufficient for me to go into very much detail about that.

At the request of appellee, it is ordered by the court that the following portions of the testimony of the witness be reproduced in exact words as follows:

Q. Did you have any reason for building up the bank bal-

ance in the Third National and the Rockford National higher than it had been carried for thirty or sixty days and reducing the balance in the Manufacturer's and Security Banks lower than they had been carried for sixty days on the 12th day of June, 1931? I am not asking whether you did it or not I am just saying did you have any reason for it?

A. Well, the Third National Bank account was down so low something had to be done.

Q. Anything else?

A. No.

On the twelfth of June our deposits in the Third National Bank were so low that something had to be done. I cannot tell you when the check that was sent to the Manufacturers Bank and the check that went to the Security Bank were sent out of our office that morning. If the mailman took it, it went in the morning. If it went out in the evening our mail boy took it to the post office. The mailman comes at 11:00 o'clock in the morning and it was customary that all checks mailed in the morning went on the 11:00 o'clock mail. That is my best recollection. If it does not go out then, the mailman comes again at two o'clock in the afternoon. If the mail goes out of our office at eleven o'clock, I presume it gets to the post office about noon or 12:30. If our boy takes it to the post office it would get there about ten minutes to five.

Redirect examination of the witness STARK conducted by Mr. Kenworthy, of counsel for defendants:

The Mechanics Universal Joint Company had a savings account with the Manufacturers National Bank on June 12, 1931 amounting to $10,000 and it was in the bank when the bank closed.

The witness STARK testified on recross examination as follows:

170 Along about the eleventh of December, 1930, the Mechanics Universal Joint Company had a balance of $100,000 in the savings account with the Manufacturers National Bank and we maintained that until December 19, when we reduced it to $75,000. I haven't the figures for that and I can't tell you definitely. During all the time in May and June

that I have been talking about, in addition to the deposit in the commercial account in the Manufacturers Bank the Mechanics Universal Joint Company had a savings account in that bank. They were separate and distinct accounts and at the time the bank closed there was about $10,000 in the savings account.

AGNES McGUIRE, a witness called by defendants, in answer to interrogatories propounded to her by Mr. Kenworthy, of counsel for defendants, testified as follows:

I live in Rockford, Illinois. I am a stenographer in the Mechanics Universal Joint Company and was such during the month of June, 1931. I worked under Mr. Stark. I was his stenographer. I have seen Plaintiff's Exhibit 20 before. First saw it on June 12, 1931 and in response to that Exhibit I typewrote a check of which Plaintiff's Exhibit 15 is a carbon copy and Plaintiff's Exhibit 14 is the original. At the time Plaintiff's Exhibit 20 first came to my hands, it bore no rubber stamp on it. I have a recollection of when Plaintiff's Exhibit 20 first came into my hands. I first saw it on the morning of June 12, 1931. It was in my file for miscellaneous checks to be typed on the morning of June 12. After I had typed the check I gave the original to Mr. Gustafson. It did not bear the signatures of either Mr. Gustafson or Mr. Erickson when I turned it over to Mr. Gustafson. I did not see Plaintiff's Exhibit 14 signed. I turned it over to Mr. Gustafson and
when I saw the check again, it bore the signatures of Mr.
171 Erickson and Mr. Gustafson. When I next saw the check
after I turned it over to Mr. Gustafson, it had attached to it the deposit slip, Plaintiff's Exhibit 2. I then put the check in an envelope and put it in the post box for the mailman to collect—that is, I mean the mail box in the building there. The envelope in which I enclosed it was addressed to the Third National Bank. The envelope was stamped when I mailed it. I think that I mailed it in the morning of June 12 before the eleven o'clock mail. Mr. Stark and Mr. Gustafson whom I have mentioned in my testimony are the same gentlemen who were witnesses in this case.

The witness AGNES McGUIRE, on cross-examination, in answer to interrogatories propounded to her by Mr. Hall, counsel for plaintiff, testified as follows:

My best recollection is that this order, marked Plaintiff's Exhibit 20, first came into my hands on the morning of June 12. I would say between nine and ten o'clock, and I drew the check right away. I drew a check on the Security Bank for $35,000 at about the same time. After they were both drawn, I gave them to Mr. Gustafson—that is, I laid them on his desk. I think I put both checks, Exhibit 14 and Exhibit 18, on his desk at the same time. As near as I can tell you, this was some time between nine and ten o'clock in the morning. I remember it. I don't remember whether Mr. Gustafson was at his desk at the time or not. Mr. Gustafson's desk is distant from my desk about the width of this room. I think there were other checks that I laid on Mr. Gustafson's desk at the same time. I usually have a bunch of miscellaneous checks. I don't remember whether included in that bunch was a check to R. L. Emmerson. I next saw the checks again in about
172 half an hour. When they came back to me Plaintiff's Exhibit 14 had a deposit slip attached to it and I addressed an envelope to the Third National Bank and at the same time I addressed another envelope to the Rockford National Bank, and I put Plaintiff's Exhibit 14 in the envelope addressed to the Third National Bank and Plaintiff's Exhibit 18 in the envelope addressed to the Rockford National. These were stamped envelopes, both alike. They had the return address of the Mechanics Universal Joint Company on them. I sealed the envelopes and put them in the mail box where the mailman collects the mail. As far as I can remember, this was before eleven o'clock in the morning. That is my best recollection. The mailman collected the mail at eleven o'clock. The mailman came again at two o'clock.

At the request of appellee, it is ordered by the court that the following portions of the testimony of the witness be reproduced in exact words as follows:

Q. Do you think you would know the envelope if you were to see it?

A. I would recognize the envelope, yes.

Q. I would like to have you look at Plaintiff's Exhibit 31, state if that is the envelope you sent that day to the Rockford National Bank?

A. It is the Mechanics Universal Joint Company envelope but whether it is the one I sent I don't know.

Q. Don't you know your own typewriting?

A. I don't know if I would recognize it or not.

Q. So far as you know you did not send any other mail of that size to the Rockford National did you, any envelopes of that size?

A. No as far as I know I did not.

Q. That is postmarked at 6:30 P. M. can you explain how that postmark got on there if it was mailed at 11?

Mr. Kenworthy: We object to that.

Court: She may answer.

Mr. Hall: The witness did not say she mailed this envelope, I am asking her.

Court: She may answer.

A. I can't explain unless it is some other stenographer's letter.

Q. When a stenographer got used to a typewriter, they write in a certain way don't they?

A. I don't know about that.

Q. Does that look like the typewriting you do?

A. It does a little. I generally put a comma after my first—

Q. First what?

A. First line.

Q. There is a comma after Rockford, isn't there?

A. Yes.

Q. Did you use that kind of an envelope that morning?

A. That was the envelope we had at the time yes.

Q. That is the kind you used that morning?

A. Yes.

Q. Did you see me put the check, Plaintiff's Exhibit 18, in that envelope?

A. Yes, sir.

Q. Is that about the way the check fit in that time you put it in?

A. Yes sir.

Q. Suppose you look at the envelope and look at the check, the typewriting on it. See if by an examination of it your recollection is at all refreshed?

A. It is the same kind of type.

Q. And it is the same kind of a ribbon, isn't it?

A. Yes. we have several Royal typewriters.

Q. It is written on the check about as it is written on the envelope, too, isn't it the same pressure? Is that right?

A. They look some alike, yes.
Q. Isn't that the envelope you sent that check in?
A. I can't say it was, it might be.
Q. You would not say it wasn't would you? Look at them both. You won't say this isn't the envelope you mailed that check in will you?
A. I don't know whether it is or not.
Q. After you have seen the envelope and compared it with the check, isn't it a fact you made that check late in the afternoon of the 12th?
A. No I think not.
Q. Do you have any independent recollection?
A. Yes I can recall the check.
Q. What time I mean?
A. I am sure it was in the morning.
Q. After you have examined the envelope you are still sure it was in the morning?
A. Yes sir.
Q. Do you know of any explanation, why that envelope should be marked 6:30 P. M.?
A. No, I don't.

173 ERIC S. EKSTROM, one of the defendants, called as a witness by defendant, testified as follows:

I am the same Eric Ekstrom who testified in this case for the plaintiff. I am one of the defendants to this suit. I have testified with reference to a meeting that was held in the office of the Manufacturers Bank at Rockford somewhere around noon on June 12, 1931. There were present at that meeting to the best of my recollection, Hugo Olsen, L. B. Achor, Oscar Milburn, A. R. Floberg, H. A. Taylor, possibly F. F. Nelson, but I am not positive, and myself. The meeting started at about eleven o'clock in the morning and it lasted until after twelve o'clock. Mr. Floberg called me up and asked me to attend the meeting. When I got to the meeting we asked Mr. Floberg what the purpose of the meeting was and he stated to us then that he had called Mr. Baty or the Chicago office of the Chief Examiner, I don't know which, to have a representative come out to see him as President of the Clearing House because of a certain conversation he had had with another gentleman in Rockford, and that Mr. Baty wanted to talk to us. I said "What does he want to talk to us about?" and he stated "No doubt about

the situation in Rockford, the banking situation in Rockford." I recall a remark that "I hope nothing happens as far as we are concerned. We are certainly solvent, aren't we?" To which Mr. Achor replied "We certainly are." I then stated "I have been away for a couple of days and I have got lots to do, can't we get a hold of Mr. Baty quickly?" To which Mr. Achor replid "Mr. Baty is no doubt very busy and I will try to get him on the 'phone" which he did and Mr. Baty came down very shortly after Mr. Achor had called him. Baty on arriving at the meeting stated the pur-
174 pose of the meeting asking that the board of directors or the members present give him authority to consult with a bank in Rockford regarding the possible merger taking in the Manufacturers National Bank and Trust Company. After some discussion we gave him that authority. The discussion was that there was to be a merger or combination between the Swedish-American Bank and the Security Bank of Rockford. In asking Mr. Baty for his reason for requesting authority to consult with a bank in Rockford, he stated that in his opinion after the merger between the Swedish-American National Bank and the Security National Bank there would no doubt be some disturbance in Rockford banking circules and that while he was about it we might as well clean up the situation and make stronger institutions and that was the reason he requested the authority to visit or consult with a bank in Rockford regarding a possible merger or taking over of the Manufacturers Bank and Trust Company. He further stated that he thought the Manufacturers National Bank and Trust Company, should there be a protracted run, would suffer very materially. That is about the extent of our conversation. I will add, after the meeting Mr. Baty, H. A. Taylor and myself had lunch at the Faust Hotel. During luncheon I asked Mr. Baty if he was positive that the merger between the Swedish-American and the Security would really be effected. He said "I have the contract in my pocket." We finished lunch about 1 or 1:30 P. M. and I went back to my office. Mr. Achor made general statements. and he stated that the bank was solvent. Nothing was said at that meeting by Mr. Baty or by Mr. Achor to the effect that whether or not the merger between the Security Bank
175 and the Swedish-American Bank was accomplished that the Manufacturers Bank would have to close on Monday if it did not effect a merger with some other bank. I heard nothing of that substance spoken that morning. The first time I heard that the Manufacturers Bank would likely not

open on Monday was on Sunday night, June 14. Concerning the meeting between a committee of directors of the Manufacturers Bank and the Third National Bank held in the banking house of the Manufacturers Bank on Saturday evening, which meeting lasted through until Sunday morning, I did not attend that meeting as an accredited member of the committee. About two o'clock on Sunday morning, I took some sandwiches and coffee in there and was there 25 or 30 minutes. There was no conversation between me and any of the persons gathered at that meeting with reference to the condition of the Manufacturers Bank. I heard nothing said at that meeting about the condition of the bank. On Sunday evening there was a meeting in the Manufacturers Bank. Mr Achor, Mr. Baty, Alfred P. Leyburn, Hugo Olson, H. A. Taylor, A. R. Floberg and myself were there. That meeting convened about 7:30 P. M. and lasted about an hour and a half. Both Mr. Baty and Mr. Leyburn addressed that meeting. Mr. Leyburn laid a prepared resolution on the table which he asked us to sign as directors of the Manufacturers National Bank and Trust Company, authorizing the Comptroller of the Currency to take charge of the Manufacturers Bank from that moment on. And he laid the resolution on the table for us to read. The resolution which he laid there was Plaintiff's Exhibit 6. When he laid it on the table it did not bear the signatures that appear to it now or the erasures there in the first line of the second paragraph. Leyburn
176 stated he wanted our signatures affixed to the resolulution. I stated I would not sign the paper. Leyburn replied "Why not?" I said "This bank is solvent and should remain open for more reasons than one." Then a general discussion took place among several of the members. Mr. Floberg stated he though the bank should remain open. Mr. Olson said he was opposed to signing the resolution so did Mr. Leyburn and Mr. Nelson. The others I don't remember. Leyburn stated the bank could not open on Monday morning. He said "You have too large an amount of frozen assets and too small a cash reserve." I said "We have got cash reserve". He said "All right, I will strike that out. Will you sign it now." And I said "No, I don't feel I should sign it." He then left the room. Mr. L. B. Achor said "For God's sake, we can't let him get out of here" and Mr. Achor went after him and he returned. Some one of the directors asked what would happen if we opened the bank in spite of his demand and he replied "The Comptroller of the Currency will hold each and every one of you liable for accepting deposits from here on." We then all signed it. I signed it that

night. Referring again to the meeting of June 12 at noon, in substance Mr. Baty stated that unless the merger between the Security and the Swedish-American was consummated and unless we merged and made a stronger institution that the banking situation would be bad in Rockford and he did not believe we could stand a protracted run. There was no talk at that meeting with reference to keeping the bank open on Friday or Saturday. The signature appearing on
177 Plaintiff's Exhibit 14 is my signature and also the signature appearing on Exhibit 18. I signed these on June 12. I have no recollection of the time of day I signed them. At the time I affixed my signature to plaintiff's Exhibit 14, I did not have any knowledge that the Manufacturers Bank of Rockford might not open at any time in the future. I had no idea that the Manufacturers National Bank was going to close. There was no idea or intention on my part in the signing of this check to effect a preference to the Mechanics Universal Joint Company for the amount of this check. I don't know whether I affixed my signature to Plaintiff's Exhibit 18 at the same time or a different time than the signature I affixed to Plaintiff's Exhibit 14 and I will explain why. Checks are laid on my desk every day, both morning and afternoon. The men in charge of the accounts are bonded. For me to sign a check is merely routine as an authorized agent of the Company. I have no recollection of whether Plaintiff's Exhibit 14 and Plaintiff's Exhibit 18 were signed before or after the meeting that I had attended at the bank on Friday morning, June 12. I have no recollection. My signing of these checks did not result from my information that I acquired at that meeting. I did not sign Plaintiff's Exhibit 14 in contemplation of the insolvency of the Manufacturers National Bank, nor was Exhibit 18 signed by me in contemplation of the insolvency of the Security National Bank. On June 12, 1931, I was not a stockholder in the Mechanics Universal Joint Company, except that I held a qualifying share—that is, the capital stock of the Mechanics Universal Joint Company is entirely owned by the Borg-Warner Corporation and I hold a qualifying share in that Company. That is my only interest in the Mechanics Universal Joint
178 Company. I was an officer of other corporations in Rockford on June 12, 1931. I was president of the Drop Forge Company; President of Forgings and Stampings Corporation and director in several others. I was a stockholder in Forgings and Stampings Corporation. I think I held 32 shares and I think I held 479 shares in the Drop Forge Com-

pany. That is, these shares were pledged but they were still in my name. I was president of both of these corporations. Both corporations maintained deposits with the Manufacturers National Bank during the month of June, 1931. I did not at any time during the month of June, 1931, prior to the 15th thereof, communicate any information that I had concerning the Manufacturers Bank to either of these corporations. I was a director in the Manufacturers Bank. Had a savings acount there and a commercial account and after this meeting on the 12th day of June I did not draw any of my money out of either the savings or the commercial accounts with the Manufacturers National Bank and made no attempts to draw any of my money.

The witness ERIC EKSTROM being cross-examined by Mr. Hall, testified as follows:

I owed the Manufacturers National Bank some money prior to June 12. When the bank closed my savings and commercial accounts were set off against my indebtedness there. After the set off I owed the bank something like $30,000. My stock in the Drop Forge Company was pledged at the time to secure a debt.

Q. Where was the capital stock pledged? Name the places.

Defendants object. Overruled. Exception.

A. Some of it was pledged to the Continental Illinois
179 Bank in Chicago. I think just 50 shares, as I recall it. Some of it was pledged with the Third National Bank at Rockford. I don't have the figures as to what I owed at the Third National Bank.

Q. What is your debt—for how much?

Defendants object. Overruled. Exception.

A. My debt at the Third National is contingent. I can't separate the notes which had signatures of six or seven other men of them. I think my direct obligations to the Third National were about $7,000. I don't know whether there was any equity in the stock that was pledged or not. None of it could be sold for its value at that time.

Q. How much was your salary in 1931 as President of the Mechanics Universal Joint Company?

Defendants object. Overruled. Exception.

A. $25,000.00 per year. I first heard that there was to be a meeting on June 12, shortly before the meeting. I went

down immediately after I was notified. All he said was that the directors were going to have an informal meeting. I don't recall that he said anything else. At that meeting Floberg stated that he had had a conversation with Mr. Truman H. Johnson, President of the Security National Bank in which Johnson had said that his bank was in some difficulty and Floberg said that he called Baty after he talked with Johnson. He did not say and I did not know that Johnson's bank was on the brink of insolvency. Statements were made that the Security Bank was in financial difficulties and I took it that the bank needed some assistance. I did not have in mind the contents of the Comptroller's letter to our bank of May 28, which said our bank was threatened with insolvency at the time of that meeting. I had no thought of what
180 was contained in that letter. There was no talk about the condition of our bank at that meeting prior to Mr. Baty asking for authority to discuss a merger with some other bank. When Mr. Baty came he said something about our frozen assets. I understood those to be the frozen assets that the Comptroller had mentioned in his letter. I knew, from the Comptroller's report, that the Comptroller claimed some of our assets were frozen. I knew that the Department claimed that $1,500,000 of our assets were frozen. All that Baty said at that meeting was that our cash position was such that we would not be able to stand a protracted run. He did not state that if the Security Bank was not taken over by the Swedish-American Bank it would not open its doors. He showed us a paper which he said was a contract between the Swedish-American Bank and the Security Bank with reference to a merger. That is he didn't show us the body of the contract but he showed us the signatures. Showed me this in the Faust Hotel, no, at the banking room in the Manufacturers Bank. None of the other directors were there at the time he showed it to me. He did not say that the contract was contingent upon valuing the assets. I did not know the terms on which the Swedish-American Bank was going to take over the assets. I thought the Security Bank stockholders were willing to turn it over for what they could get for it. I supposed that was a matter that was covered by the contract. Nothing was said about what would happen to the Manufacturers Bank in case the Security Bank did not open on Monday morning. At that meeting we signed an authority to Baty to consult with a bank in Rockford. As far as I knew, I had no knowledge of what bank he was going to talk to. There was a committee appointed at the June 12th

meeting to consult with the bank which Mr. Baty consulted. I did not attend a meeting on Sunday about one o'clock in the afternoon. If the minutes show that I was at that meeting, the minutes are wrong. I was never at a meeting where Mr. Olson moved that the committee appointed at yes-
181 terday's special meeting to represent the Board be given authority to negotiate and convey and sign any instrument or any contracts necessary. I heard on Saturday from Mr. Olson that there was to be a meeting at the bank on Saturday night between the committee we had appointed and a committee from the Third National Bank, he said they were going to value the assets, and I drove by the Bank at about two o'clock in the morning. Saw some lights in the bank and concluded if these men were working all night they might enjoy some sandwiches and coffee. Mr. Olson was with me. He had been with me all evening. Olson claimed to know who was in the bank. How he knew it, I don't know. When we went in there as I remember Mr. Achor, Mr. Floberg and H. A. Taylor and Mr. Conklin were there representing the Manufacturers and Mr. George Spafford, Harold Clark, Martin Kjelgren, Armor Johnson were there representing the Third National. They were working in the vault downstairs. I did not know until I got to the meeting Sunday night that according to the valuation of the assets by the committee of the two banks, the Third National Bank demanded $750,000 in cash in order to assume the deposit liability of the Manufacturers. I heard after I got to the meeting that according to the valuation the capital and surplus had been wiped out. I still thought the bank was solvent. At that meeting Sunday night I understood that the Security Bank would close down the next morning when we were told by the Chief Bank Examiner that our cash position was such that the Manufacturers Bank could not stand a run. They did not say that we could not stand a run for one day. I understood we had approximately $500,000 in cash. I signed this resolution Sunday night before I left the meeting. I would say it was 8:30 or 9 o'clock. I was angry at that meeting and perhaps you could say that I had a quarrel with both Mr. Baty and
182 the District Examiner and I did not apologize to any one and did not go back to the bank on Monday morning. When I signed those checks on June 12, I didn't pay any attention to the amount of them or to whom they were payable. I knew I signed the check, both the $42,761.12 check on the Manufacturers Bank and the $35,000 check on the Security but I paid no attention to the amount. I sometimes sign

checks in the morning and sometimes in the afternoon. I may have signed these checks on Friday afternoon. I don't have any recollection about the time I signed them. Leyburn said at the meeting on Sunday night that if we opened the bank on Monday we would be held criminally liable for all deposits accepted. I think in that meeting he stated that in his opinion that the bank was insolvent. I did not have charge of the bank and I don't know whether there has been any change in the position of the bank from what it was on Friday or not. So far as I knew there had been no particular change. Mr. Baty told me at the Faust Hotel on Friday noon that the Swedish-American Bank and the Security Bank would merge. He did not say that if the merger did not go through the Security Bank could not open. He said it was going through.

HUGO L. OLSON, a witness on behalf of the defendants, in answer to interrogatories propounded to him by Mr. Kenworthy, of counsel for defendants, testified as follows:

I live at Rockford, Illinois. I was a director of the Manufacturers National Bank and attended a meeting held at the Bank shortly before noon of June 12, 1931. A. R. Floberg, H. A. Taylor, E. S. Ekstrom, L. B. Achor, Oscar Milburn, Mr. Baty and myself were present at that meeting. I got to the meeting sometime shortly after eleven o'clock. A few
183 minutes after I arrived Baty came into the meeting. Before Mr. Baty called there was some conversation. I asked why we were called together. Some one said Mr. Baty wanted to talk to us. I remember some one asking L. B. Achor if he knew why we were being called and if we were to discuss our bank's condition and some one asked Mr. Achor if in his opinion our bank was solvent and he said "Yes, sir." I don't remember anything else that was discussed before Mr. Baty came to the meeting. When Baty came he said that a very bad situation had arisen in Rockford with reference to a certain bank, and that was the Security Bank and he said that a tentative contract had been drawn up with the Swedish-American Bank to merge with the Security National Bank, or take it over. He said in his opinion the announcement of this merger or take over would be announced in the paper Sunday and that in his opinion that would create a very bad situation in Rockford and a lot of nervousness, and no doubt it would bring a run on those banks that remained open.

Some one said to Mr. Baty that he did not think that would effect us, the Manufacturers National Bank, and that the run, if there was one, would be of short duration. Mr. Baty said we knew nothing about these runs, the department understood that situation much better than we did and the run might last for a long period and our cash position would not permit us, if the run lasted for a long period, to remain open. Some one said to Mr. Baty that in our opinion he did not understand the attitude of the depositors in Rockford and particularly those in the Manufacturers Bank. We did not believe that they would run like a flock of sheep but we were told we knew nothing about it. We did not have experience about these runs by Mr. Baty and the Department did. That is the gist of the conversation as I remember. Mr. Baty
184 further requested permission from the directors to see or call upon any bank in Rockford with the idea of merging the Manufacturers bank with this other bank. We told Mr. Baty we did not approve of that because it was a poor time for mergers and we would be allowed very little for our bank's assets. Mr. Baty said in his opinion a merger should be effected for the good of the banking situation in Rockford and finally we gave Mr. Baty authority to see a bank in Rockford and I think that I suggested that I would prefer he talked to the Third National Bank about a merger. That is the substance of the conversation so far as I can recollect. There was nothing stated at that meeting by Mr. Baty or Mr. Achor, or either of them to the effect that whether or not the merger was effected between the Security Bank and the Swedish-American Bank that the Manufacturers would not be able to open its doors on Monday. Nothing of that substance that I heard. Mr. Baty said we could put an embargo on our savings accounts and possibly in that manner remain open for some time but in his opinion this run was bound to last a long time and he did not think our cash assets would be sufficient to sustain a long time run. In substance Mr. Baty said that two banks on the east side and two on the west side of the river would be sufficient for Rockford. At that time there were five banks on the east side.

MR. OLSON, cross-examined by Mr. Hall, testified as follows:

At the present time there are two banks on the east side.

Q. How many are there on the west side?

Objected to by defendants. Overruled. Exception.

A. One. The Peoples Bank failed on June 15, 1931 and the Illinois Bank occupies its building. I don't know whether
I ever heard of the Illinois Bank before June 15, 1931.
185 A. R. Floberg called me to the meeting on June 12, 1931.
He was president of the Manufacturers Bank and he was also Chairman of the Clearing House. In title only I was Vice President of the Manufacturers Bank. I was not active in the management of the bank's affairs. I had been a member of the Loan Committee and attended many meetings of that Committee. I knew the assets of the bank. Baty said in substance at the meeting at noon on June 12 to the Directors assembled that the cash position of the bank was low, so that I understood our cash position was low. In substance he said the Security National Bank was in trouble. I don't recall that he said that if they weren't taken over by another bank they would not be able to continue business. Baty also said that he had a tentative contract between the Security Bank and the Swedish-American Bank and he said in his opinion it should without question be consummated, and that there would be a notice in the paper of a merger on Sunday morning and that it would create unusual excitement in Rockford and a run on the bank if it remained open. He did not say anything about the tentative contract being subject to the valuation of assets of the Security Bank. I understood that the merger would go through. I thought it was a firm contract. Didn't give any consideration to the word "Tentative." I presume I am interested in this case on trial. I did not understand on the morning of June 12, 1931 that the Manufacturers Bank, if it did not consolidate with the Third National Bank, might fail. On Saturday morning, about ten o'clock, the last day the bank was open, I transferred
$10,000.00 from that bank by telephone. I was President
186 of the Sundstrand Machine Tool Company and I transferred by telephone out of the funds of the Sundstrand Machine Tool Company in that bank to the First National Bank in Chicago $10,000. There is a suit pending here now against myself and the Sundstrand Machine Tool Company to try to make us put that $10,000 back. The basis of that suit is this meeting of the directors at eleven o'clock A. M. on the morning of June 12. I don't know what the basis of the suit on trial is. On Saturday morning, June 13, when I ordered this money transferred by telephone, I had not received any other or different information than I had received at the meeting held on June 12. Prior to that time on several

occasions I had transferred money out of the Manufacturers Bank. I had not talked to anybody concerning my testimony in this case. I was subpoenaed here by you as a witness for the plaintiff. I don't remember Baty using the words "Frozen assets" in his conversation on June 12. I thought half of our assets were in cash and I thought that would be sufficient to tide the bank over.

Q. Mr. Olson, on June 12, 1931, at the time of this meeting, how much money did you owe the bank?

Objected to by defendants. Overruled. Exception.

A. Around $11,000.00 of direct obligations.

Q. How much indirect?

Objection. Overruled. Exception.

A. I think it was upwards of $50,000.00.

A. R. FLOBERG, a witness for the defendant, in answer to interrogatories propounded to him by Mr. Kenworthy, of counsel for defendant, testified as follows:

I am the A. R. Floberg who was acting as President of the Manufacturers Bank prior to June 15, 1931. I remember
187 a meeting that was held in the office of the bank at Rockford about midday June 12, 1931. H. A. Taylor, Hugo Olson, Eric Ekstrom, Oscar Milburn, F. F. Nelson, K. E. Knudson, Mr. Baty, Mr. Achor and myself were present. Baty was not there when the meeting first convened. He came in afterwards. I don't think there was very much conversation before Baty came. After Baty came to the meeting Mr. Baty stated that a bank in Rockford was in difficulty and that he was arranging a merger. He stated later on it was the Security National Bank. He had every reason to believe that a merger could be effected through his assistance with the Swedish-American National Bank. He stated he was sure a merger or take over of some type was absolutely necessary because the Security Bank would not open. He stated he had in his pocket a contract signed which led him to believe that a merger was a certainty and that any disturbance in that section of the city would be taken care of through this merger which he was attempting to arrange. He went on to state to the members of the Board of the Manufacturers Bank who were there at this informal meeting that they should be primarily interested in quieting the banking situation in Rockford, Illinois. They should be glad to have a merger between

the Manufacturers National Bank and some other bank consummated because it would be the big and the public spirited thing to do. He said that bank disturbances were disastrous in the various communities where they occurred. He thought these men were big enough to see that and lend their assistance to any merger that could be consummated. Mr. Knud-

son said that he knew from his knowledge of the bank's
188 condition he was of the opinion that a merger was noth-

ing that was absolute necessary and that he was astonished to be called to a meeting where that subject was brought up. That he did not favor it. Mr. Olson stated that in his opinion a merger was not necessary or could it be very easily accomplished in his opinion. Mr. Ekstrom asked "What is the cash position of the bank?" He directed this question to me and I said that the cash position of the bank was such that we were continuing to meet all demands and that as far as I knew we were able to continue business. Mr. Baty repeated the statement that the Manufacturers Bank should be primarily interested in preserving a peaceful banking situation in Rockford. Regarding the conversation relative to giving authority to Mr. Baty to negotiate a merger with some other bank Mr. Olson stated that he wished to know definitely the position of the bank before he signed such an instrument. He inquired of Mr. Baty and inquired of myself and Mr. Taylor whether this bank was in a solvent position and the three people to whom he inquired all answered that it was. Mr. Olson stated in his opinion the chances for a merger were not good and he did not favor the signing of any papers that he did not think could be successfully carried out as far as the plans were concerned. Baty said he could be of a good deal of assistance to the board of the Manufacturers Bank provided he was given authority to approach some one who he had in mind. There was no resolution passed but there was a paper signed. Mr. Baty had the paper with him and we signed it. I have stated the substance

of all that took place at that meeting as I recollect it.
189 No such statement was made by Mr. Baty or Mr. Achor

at that meeting to the effect that whether or not the Security Bank was taken over by the Swedish-American Bank it would be impossible for the Manufacturers Bank to open its doors on the Monday morning following. The bank remained open all day Friday after that meeting and all of the Saturday following. To my knowledge it pursued its ordinary business on Friday and Saturday after that meeting. It met

all its obligations on those days and met all demands that were made upon it during those days.

The witness A. R. FLOBERG, on cross-examination, in answer to interrogatories propounded to him by Mr. Hall, counsel for plaintiff, testified:

I had been President of the Manufacturers Bank since January, 1930. Prior to that was Vice President for 3 or 4 years. While I was Vice President N. F. Thompson was the President, and in January, 1930 he became Chairman of the Board and I became President. Eric Ekstrom had been a director of that bank for 4 or 5 years and Hugo Olson for a longer period, probably 10 years. Olson and Ekstrom were both members of the Loan Committee. I conferred with them about once a month concerning the Loans of the bank. I was very friendly toward both of them and had been for a long time. The Manufacturers Bank pursued its ordinary course on Saturday, the 13th, in every way. I know it is alleged that some one took $1,000 that day out of one of the cages but I didn't know it. That was not a usual thing for the Manufacturers Bank to do. It had never happened before. I don't know that the deposits of the Manufacturers Bank dropped on Friday, the 12th. I know that the de-
190 posits dropped off on Saturday, they always did on Saturday and more often than not the deposits dwindled on Friday. It was a trend of the banking business for deposits to dwindle at about that time. It frequently happens that withdrawals exceed deposits of $200,000 or more from the first to the 12th of the month. When Ekstrom asked at the meeting on June 12 what the cash position of the bank was, I stated in round numbers the amount of money on hand to do business that we had. I can't remember now how much of the Bank's paper was protected. We had sent in $156,000 of our assets to the Federal Reserve Bank for rediscount that night, June 12th. I did not tell Ekstrom that we intended to borrow on our assets. I told him nothing more than I have stated. I told him that we had met all demands up to that time, and that so far as I knew we were in a position to continue business. Baty said that he and the Department had had experience with runs. He did not say that if there was a run on the banks in Rockford on Monday our bank would not be able to stay open the whole business day. He

did say in the presence of Ekstrom that our bank was not in a position to stand a run. I think L. C. Miller was present at that meeting. I had forgotten about him. There was a committee appointed to represent the bank in any negotiations that were had but it was my recollection that that was at another meeting. I attended a meeting the next day. Also attended a meeting on Sunday at about 1:15 o'clock. And on that Sunday a resolution was passed that the Committee appointed at yesterday's special meeting to represent the Board be given full authority to negotiate and communicate and sign any and all instruments, notes and other con-
191 tracts. I think we had a meeting also at one P. M. on Saturday. Our bank closed Saturday at 1:30 o'clock P. M.

Q. How much did you owe the Bank on June 12, 1931, at the time you had this meeting?

Defendants object. Overruled. Exception.

A. Direct obligation about $7,000.00.

Q. How much indirect?

Objection. Overruled. Exception.

A. I think a little in excess of $40,000.00.

Q. Did your family own the Excel Manufacturing Company?

Objection. Not proper cross-examination. Overruled. Exception.

A. We came into ownership in 1929. The Excel Manufacturing Company owed the Bank at that time.

Q. How much?

Objected to. Overruled. Exception.

A. A considerable sum, I can't remember what it was. About $65,000. I was interested as a partner in Rolling Green.

Q. How much did Rolling Green owe the bank at that time?

Objection. Overruled. Exception.

A. $30,000.00.

Q. Was that unsecured?

Objection. Overruled. Exception.

A. You mean as to collateral?

Q. Yes.

A. Yes.

MR. EKSTROM, recalled by Mr. Hall, on rebuttal testified as follows:

Along about June 31, I did not sign checks on account of the Rockford Drop Forge Company unless some of the other officers were absent. On my direct examination I stated that I owned one share of stock of the Borg-Warner Corporation.

Previous to June, I had owned more than that. I think
192 I owned 500 shares. They were all pledged for a debt.

On June 12, in addition to the one qualifying share that I owned, I also owned 500 shares which stood in my name but the same were pledged. This stock was of the par value of $10.00. I owned no stock in any of the affiliated companies of Borg-Warner. My entire stock in the whole thing was represented by 500 shares.

L. B. ACHOR, a witness called by the defendants, in answer to interrogatories propounded by Mr. Kenworthy, of counsel for defendants, testified:

I have produced the records of the Manufacturers National Bank and Trust Company showing the amount of the deposit in the commercial account that the Forgings and Stampings had with that bank on June 12, 1931. The amount of the deposit was $312.96. On June 12 only one check was drawn against that account. It was for $2.87. None was drawn after June 12. I have a record showing the amount of the savings deposits for the Forgings and Stampings Company with the Manufacturers Bank on June 12, 1931. That amounted to $5000. The records of the Manufacturers Bank show no withdrawal on June 12 or afterward from that savings account. I have the records showing the deposits of the Rockford Drop Forge Company in the commercial department of the Manufacturers Bank during the month of June, 1931. The amount of its deposits to the commercial department on June 12, 1931 was $18,530.02. The only withdrawals from that deposit was $1601.45 on the 13th and $187.49 on the 12th of June. That left a balance in the bank when the bank closed its doors of $16,928.57. The Mechanics Uni-
193 versal Joint Company maintained a savings account with the Manufacturers Bank in June, 1931. The amount on deposit on June 1, 1931 was $20,000. Of that amount $10,-

000.00 had been withdrawn on June 2 and $10,00 was the balance to that savings account when the bank closed. Eric S. Ekstrom maintained a savings deposit with the Manufacturers Bank in June, 1931. The amount of his savings deposits on June were $786.89. There were no withdrawals after the first of June, 1931 from that account. Eric S. Ekstrom had a commercial account with the Manufacturers National Bank and there was on deposit to his credit in that account on June 1, 1931, $1993.92. There was a withdrawal from that account on June 8, leaving the balance $1731.47 and that amount remained on deposit until the bank closed.

The witness L. B. ACHOR, on cross-examination, in answer to interrogatories propounded to him by Mr. Hall, counsel for plaintiff, further testified:

The card I produce marked Plaintiff's Exhibit 33 is a signature card upon which the Manufacturers Bank allowed withdrawals from the Forgings and Stampings account.

Defendants offer DEFENDANT'S EXHIBITS 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 all of which are admitted.

On page 323 of the transcript of the evidence, it appears that the offer of the Charter and By-laws of the Winnebago Securities Corporation was admitted by the plaintiff, the plaintiff offering only the charter and objection to the charter was overruled and the same was admitted.

And thereupon the defendant rested.

REBUTTAL.

194 L. B. ACHOR, a witness called by the plaintiff in rebuttal in answer to interrogatories propounded to him by Mr. Hall, counsel for plaintiff, testified:

I am the Receiver of the Manufacturers Bank of Rockford. Exhibit 33 is a signature card bearing the signature of the person who is authorized to sign checks of withdrawals on the savings account of the Forgings and Stampings, Inc. in the Manufacturers Bank and Trust Company.

The plaitiff offers in evidence PLAINTIFF'S EXHIBIT 33. Admitted.

MR. BATY, a witness called in rebuttal on behalf of the plaintiff in answer to interrogatories propounded to him by Mr. Hall, counsel for plaintiff, testified as follows:

I am the same M. R. Baty who testified on the witness stand before. I heard Mr. Ekstrom testify that I stated I had a tentative contract between the Swedish-American Bank and the Security Bank for the merging of those two banks on June 12. Exhibit 32 is the contract which I had. It is in the same condition now as it was then.

PLAINTIFF'S EXHIBIT 32 offered by plaintiff.

Objected to by defendant as immaterial and irrelevant.

Overruled. Exception.

WALTER E. BURWELL, a witness produced in rebuttal by plaintiff, in answer to interrogatories propounded to him by Mr. Hall, counsel for plaintiff, testified as follows:

I live at Rockford and was Executive Vice President of the Rockford National Bank in June, 1931. Have been connected with that bank 26 years. Shortly after June 12, 1931, I had a conversation with some one from the Mechanics Universal Joint Company with reference to a check for $35,000 that
195 had been drawn on the Security Bank and deposited in the Rockford Bank. I talked with Mr. Gustafson several times. I have a hazy recollection of talking with Ekstrom about the matter. The paper you hand me marked Plaintiff's Exhibit 31 is an envelope containing the return card of the Mechanics Universal Joint Company addressed to the Rockford National Bank. I have seen this before. At the time of the discussion about this particular check, I first saw it in the bank. I sent out to get all the available matter upon that subject together and this is the time I saw this envelope. At the time I talked with Gustafson he told me that that check was deposied in the post office or mail at 4:30 o'clock in the afternoon of Friday, June 12, 1931. The envelope is now in the same condition as it was when I first saw it.

CARL EKLUND, a witness produced by the plaintiff, on rebuttal, in answer to interrogatories propounded to him by Mr. Hall, testified as follows:

I was cashier of the Rockford National Bank in June, 1931. Shortly after June 12, 1931, I learned of a check that was claimed to have been sent to the Rockford National Bank for $35,000 drawn by the Mechanics Universal Joint Company on the Security National Bank, on or about June 12. I saw Mr. Gustafson talking to Mr. Burwell shortly after that time. I was called to the rail at Burwell's desk. I first saw Plaintiff's Exhibit 33 after Mr. Gustafson was in with reference to this item. It is in the same condition now as when I first saw it.

GUY JAMES, a witness produced by plaintiff, in answer to interrogatories propounded to him by Mr. Hall, testified as follows:

196 I was receiving teller of the Rockford National Bank in June, 1931. On June 13, 1931, in the morning of that day, I received a check for $35,000 from the Mechanics Universal Joint Company on the Security National Bank of Rockford, and I remember that shortly after June 12, 1931 there was some controversy with reference to that check. I have seen plaintiff's Exhibit 31 before. I first saw it on June 13, 1931 in the bank building in the wastepaper basket. It was taken from the basket on June 13. We looked for this letter and found it in a bale of paper. There was no other letter in that bale of paper for June 13, 1931. This is the only envelope of the Mechanics Universal Joint Company I saw. I brought that paper up and gave it to Mr. Eklund. It is in the same condition now as when I first saw it. Plaintiff offers PLAINTIFF'S EXHIBIT 31.

Objected to as immaterial. Overruled. Excepted.

Plaintiff rests.

216 PLAINTIFF'S EX. #1.

The Third National Bank of Rockford, Ill.

Sheet No. 21 Name Mechanics Universal Joint Co.,

Address General Acct.,

Proof	Date		Apr. 14, 1931	Checks in Detail		Date	Deposits	Date	New Balance
				Balance Brought Forward		Apr.	14 7,196.37	Apr.	14 7,196.37*
7,196.37	Apr.	17	629.04– 1						
6,567.33	Apr.	18	1,400.00–	1,813.70–		Apr.	18 12,463.80	Apr.	18 15,817.43*
15,817.43						Apr.	20 20,420.46	Apr.	20 36,237.89*
36,237.89	Apr.	23	23,000.00–					Apr.	23 13,237.89*
13,237.89						Apr.	28 2,475.72	Apr.	28 15,713.61*
15,713.61						Apr.	30 615.22	Apr.	30 16,328.83*
								Statement Apr. 30, 1931	
16,328.83	May	1				May	1 6,306.41	May	1 22,635.24*
22,635.24	May	5	196.13–					May	5 22,439.11*
22,439.11	May	11	20,000.00–					May	11 2,439.11*
2,439.11						May	12 1,092.27	May	12 3,531.38*
3,531.38						May	19 14,275.68	May	19 17,807.06*
17,807.06						May	21 660.51	May	21 18,467.57*
18,467.57						May	22 8,255.82	May	22 26,723.39*
26,723.39	May	26	22,000.00–					May	26 4,723.39*
4,723.39						May	28 59.32	May	28 4,782.71*
								Statement May 29, 1931	
4,782.71						Jun.	4 8,856.00	Jun.	4 13,638.71*
13,638.71	Jun.	9	10,000.00–					Jun.	9 3,638.71*
3,638.71	Jun.	13	21.24–			Jun.	13 1,390.92		
						Jun.	13 42,761.12	Jun.	13 47,769.51*
47,769.51	Jun.	16	15.00–					Jun.	16 47,754.51*
47,754.51	Jun.	16	75.00–	25.00–	80.00–				
	Jun.	16	102.80–					Jun.	16 47,471.71*
47,471.71	Jun.	17	38.25–					Jun.	17 47,433.46*
47,433.46	Jun.	17	11,606.43–					Jun.	17 35,827.03*
35,827.03						Jun.	17 64,138.43	Jun.	17 99,965.46*
99,965.46	Jun.	17	90.50–					Jun.	17 99,874.96*
99,874.96	Jun.	18	47.41	20.74–	.65–			Jun.	18 99,806.16*
99,806.16	Jun.	18	13.95–					Jun.	18 99,792.21*
99,792.21	Jun.	18	31.33–	68.04–				Jun.	18 99,692.84*
99,692.84	Jun.	19	.50–	1.47–	3.73–				
	Jun.	19	16.96–					Jun.	19 99,670.18*
99,670.18	Jun.	19	2.37–	17.25–	51.57			Jun.	19 99,598.99*
99,598.99	Jun.	19	31.75–			Jun.	19 1931	Jun.	19 99,567.24*

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Sheet No. 22

The Third National Bank of Rockford, Ill.
NAME Mechanics Universal Joint Co.,
Address General Acct.,

Proof	Date June 19, 1931		Checks in Detail			Date	Deposits	Date	New Balance
	Balance Brought Forward.....					Jun.	19 99,567.24	Jun.	19 99,567.24*
99,567.24	Jun.	20 4,272.27LS	1.29–	2.00–					
	Jun.	20 1.50–						Jun.	20 95,290.18*
95,290.18	Jun.	20 51.50–						Jun.	20 95,238.68*
95,238.68	Jun.	22 4.75–	22.92–	1.22–					
	Jun.	22 31,624.36LS						Jun.	22 63,585.43*
63,585.43	Jun.	23 88.07–	7,159.83LS					Jun.	23 56,337.54*
56,337.54	Jun.	24 985.01LS						Jun.	24 55,352.53*
55,352.53	Jun.	25 18,000.00–	480.40LS					Jun.	25 36,872.13*
								Statement Jun. 25, 1931	
36,872.13	Jun.	26 731.51LS				Jun.	26 1,838.25	Jun.	26 37,978.87*
37,978.87	Jun.	26 25.00–	60.00–					Jun.	26 37,893.87*
37,893.87	Jun.	27 21.03–						Jun.	27 37,872.85*
37,872.84	Jun.	29 10,000.00–	.75–	158.02–					
	Jun.	29 .65–	3.06–					Jun.	29 27,710.36*
27,710.36						Jun.	30 11,044.96	Jun.	30 38,755.32*
								Statement Jun. 30, 1931	
38,755.32	July	1 3.18–						Jul.	1 38,752.14*
38,752.14	Jul.	1 225.11–	132.81–	11.83–				Jul.	1 38,382.39*
38,382.39	Jul.	1 12.74–						Jul.	1 38,369.65*
38,369.65	Jul.	2 1,664.76LS						Jul.	2 36,704.89*
36,704.89	Jun.	2 120.56–						Jun.	2 36,584.33*
36,584.33	Jul.	3 3,972.79LS						Jul.	3 32,611.54*
32,611.54	Jul.	3 24.07–	29.13–			Jul.	3 10,559.80	Jul.	3 43,118.14*
43,118.14	Jul.	6 1,274.06LS						Jul.	6 41,844.08*
41,844.08	Jul.	7 2,844.14LS						Jul.	7 38,999.94*
38,999.94	Jul.	8 4.56–	1.47–					Jul.	8 38,993.91*
38,993.91	Jul.	9 3.08–	11.92–	12.65–				Jul.	9 38,966.26*
38,966.26						Jul.	9 12,038.19	Jul.	9 51,004.45*
51,004.45	Jul.	9 527.98–						Jul.	9 50,476.47*
50,476.47	Jul.	10 480.02–	4.53–	23,000.00–				Jul.	10 26,991.92*
26,991.92	Jul.	11 92.61–						Jul.	11 26,899.31*
26,899.31	Jul.	13 65.00–						Jul.	13 26,834.31*
								July 13, 1931	

218 PLAINTIFF'S EXHIBIT #2.

Deposited With
The Third National Bank,
Rockford, Ill.
By Mech. Univ. Joint Co.
6/12/31
All Items are Credited Subject to Payment

Right is reserved and the bank is authorized to forward items for collection or payment direct to the drawee or payor bank, or through any other bank at its discretion, and to receive payment in drafts drawn by the drawee or other banks, and except for negligence, this bank shall not be liable for dishonor of the drafts so received in payment nor for losses thereon.

	Dollars	Cents	Dollars	Cents
Corrency				
Gold				
Silver				
Checks	42,761	12		
			42,761	12

(4)

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219 PLAINTIFF'S EX. #3.

The Manufacturers National Bank and Trust Co., Rockford, Illinois.

Sheet No. Name Mechanics Universal Joint Co.

Address

Old Balance	Date	Checks in Detail			Date	Deposits	Date	New Balance
					1931			
	Balance Brought Forward.....				Apr. 16	9,021.53		
	1931						1931	
	Apr. 16						Apr. 16	8,989.92*
8,989.92					Apr. 17	45,380.15	Apr. 17	54,370.07*
54,370.07	Apr. 17	4,895.69LS					Apr. 17	49,474.38*
49,474.38	Apr. 18	782.78LS					Apr. 18	48,691.60*
48,691.60	Apr. 20	5,629.21LS					Apr. 20	43,062.39*
43,062.39	Apr. 21	1,738.91LS			Apr. 21	1,062.50	Apr. 21	42,385.98*
42,385.98	Apr. 22	2,372.27LS					Apr. 22	40,013.71*
40,013.71	Apr. 23	334.20LS					Apr. 23	39,679.51*
39,679.51	Apr. 24	349.54LS					Apr. 24	39,329.97*
39,329.97					Apr. 23	9,087.40	Apr 23	48,417.37*
48,417.37	Apr. 23	458.10LS					Apr. 23	47,959.27*
47,959.27	Apr. 27	6.26–	74.20–				Apr. 27	47,878.81*
47,878.81	Apr. 28	9.90–					Apr. 28	47,869.91*
47,868.91	Apr. 28	10,498.66–					Apr. 28	37,370.25*
37,370.25	Apr. 29	129.16–	3.00–				Apr. 29	37,239.09*
37,239.09	Apr. 30	127.52LS					Apr. 30	37,111.57*
37,111.57	May 1	635.25LS					May 1	36,476.32*
36,476.32	May 2	4,092.93LS					May 2	32,383.39*
32,383.39	May 4	4,280.75LS					May 4	28,102.64*
28,102.64	May 5	5,727.89LS					May 5	22,374.75*
22,374.75	May 6	555.50LS					May 6	21,819.25*
21,819.25	May 7	605.92LS			May 7	167.19	May 7	21,380.52*
21,380.52	May 8	130.01–	74.54–				May 8	21,175.97*
21,175.97	May 9	105.43–	186.06–	13.03–			May 9	19,918.97*
	May 9	896.05–	56.43–				May 11	14,918.97*
19,918.97	May 11	5,000.00–						
14,918.97					May 11	28,021.33	May 11	42,940.30*
42,940.30	May 12	53.90–	84.00–	20.10–			May 12	42,702.30*
	May 12	80.00–						
42,702.30	May 13	4.21–					May 13	42,698.09*
42,698.09	May 14	104.17–	1,157.55–	19.32–			May 14	41,417.05*
41,417.05	May 15	413.71–					May 15	41,003.34*
41,003.34	May 15	9,894.24–					May 15	31,109.10*
31,109.10	May 16	101.14–	27.97–	10.00			May 16	30,969.99*
30,969.99	May 16	51.50–	62.15–		May 16	24,911.68	May 16	55,768.02*
55,768.02	May 18	14,167.25LS			May 18	5,000.00		
					May 18	20,000.00	May 18	66,600.77*
66,600.77	May 19	1,973.76LS					May 19	64,627.01*
64,627.01	May 20	5,443.88LS					May 20	59,183.13*
59,183.12	May 21	213.84LS					May 21	58,969.28*
58,969.29							May 21	58,969.29*
58,969.29	May 22	2,011.26LS					May 22	56,958.03*
56,958.03	May 23	323.10LS					May 23	56,634.93*
56,634.93	May 25	64.94–	.75–	1.00–			May 25	56,565.03*
56,565.03	May 25	3.21–			May 25	534.35	May 25	57,099.38*
57,099.38	May 26	15.00–	5.26–	3.19–			May 26	57,075.05*
	May 26	.88–						
57,075.05					May 26	4,163.00	May 26	61,238.05*
61,238.05	May 27	201.63–	17.59–	1.48–				
	May 27	25.70					May 27	60,992.35*

220 **PLAINTIFF'S EX. #3.**

The Manufacturers National Bank and Trust Co., Rockford, Illinois

Sheet No. Name Mechanics Universal Joint Co.

Address

Old Balance	Date	Checks in Detail			Date	Deposits	Date	New Balance
					1931			
	Balance Brought Forward				May 28	60,992.35		
	1931				1931		1931	
	May 28	75.30–	4.00–	1.03–				
	May 28	2.08–	1.99–				May 28	60,908.00*
60,908.00	May 29	10.34–	5.61–	2.41–				
	May 29	6.00–	.94–	32.28–			May 29	60,850.42*
60,850.42					May 29	2,928.61	May 29	63,779.03*
63,779.03	Jun. 1	154.14–	5.00–	70.00–				
	Jun. 1	20.00–	28.44–				Jun. 1	63,501.45*
63,501.45	Jun. 1	150.18–			Jun. 1	11,095.28		
					Jun. 1	10,149.61	Jun. 1	83,596.16*
83,596.16	Jun. 2	2,536.72LS					Jun. 2	81,059.44*
81,059.44	Jun. 3	1,160.26LS					Jun. 3	79,899.18*
79,899.18	Jun. 4						Jun. 4	79,107.87*
79,107.87	Jun. 5						Jun. 5	77,860.44*
77,860.44	Jun. 6	14,336.76LS					Jun. 6	63,523.68*
63,523.68	Jun. 8	127.82–	2.00–	92.84–			Jun. 8	63,301.02*
63,301.02					Jun. 8	44,617.21	Jun. 8	107,918.23*
107,918.23	Jun. 9	125.65–					Jun. 9	107,792.58*
107,792.58	Jun. 9	1.50–					Jun. 9	107,791.08*
107,791.08	Jun. 10	35,589.33LS					Jun. 10	72,201.75*
72,201.75	Jun. 11	224.70–	12.87–	5.50–				
	Jun. 11	19.04–					Jun. 11	71,939.64*
71,939.64	Jun. 12	12.13–	4.67–	64.29–				
	Jun. 12	21.38–	11.86–				Jun. 12	71,825.31*
71,825.31	Jun. 13	46,197.03LS					Jun. 13	25,628.28*

221 **PLAINTIFF'S EX. 4.**

Checks in Detail

From

Manufacturers National Bank and Trust Co.

Mechanics Universal Joint

6-13-1931

21.1
2,436.87
197.57
599.76
66.84 (Perforation)
96.46
14.86 PAID
42,761.12
46,195.26 6 13 31
1.77

46,197.63

222 PLAINTIFF'S EXHIBIT 5.

Clearings
from
Third National Bank
to
Manufacturers National Bank
Jun 13 1931

96.00	21.57	11.70	10,581.58**
1.00	9.50	2.62	10581.58
21.50	30.00	665.13	42761.12
52.98	60.00	5.99	93.85
7.00	5.00	47.17	3.35
10.00	2.00	35.55	52.30
33.55	33.82	6.13	23.75
50.00	2495.01	5.93	67.37
32.00	3.00	7.20	2.50
20.51	9.18	5.00	10.80
144.21	13.95	17.14	1.55
.81	47.15	9.90	5.00
8.58		11.69	1.05
9.65	4617.01**	20.40	
30.00		68.60	53604.22*
101.75	4617.01	19.81	
30.00	50.75	10.50	Jun 13 1931
2.00	10.00	9.59	
20.00	10.00	71.72	
2.00	18.75	51.03	
8.08	1.35	16.53	
4.50	2.28	4.28	
24.00	.50	1.47	
15.00	2.50	35.00	
26.00	5.00	118.41	
.60	4.00	194.00	
9.05	3.35	876.80	
8.00	35.46	7.52	
150.38	10.82	3.50	
23.50	1.06	11.85	
91.65	17.50	163.44	
9.84	182.64	12.27	
9.18	101.76	15.80	
1.90	85.00	5.38	
3.52	12.00	25.00	

29.60	101.00	12.80
106.07	37.75	2.41
.50	16.53	39.63
127.94	42.38	36.72
10.00	3.00	65.13
6.00	2.00	23.83
2.00	24.63	27.24
2.79	304.25	3.47
5.00	5703.27	1.50
10.00		75.00
2.80		142.31
..60		103.30
143.57		82.24
4.40	1618.29	5.56
247.06	27.75	
11.00	20.58	4872.91
100.00	4.55	5708.67
18.76	6.55	

223 PLAINTIFF'S EXHIBIT 6.

Letterhead of The Manufacturers National Bank and Trust Company

Rockford, Illinois

Special Meeting of the Board of Directors of The Manufacturers National Bank and Trust Company, Rockford, Illinois, Held June 14, 1931, at 8:05 o'clock P. M.

At a special meeting of the Board of Directors of The Manufacturers National Bank and Trust Company, Rockford, Illinois, held at the hour of seven o'clock P. M. on June 14, 1931 in its banking rooms in the City of Rockford, Illinois, the following resolution was upon motion duly adopted and approved;

Whereas: That due to frozen and non-liquid assets ~~and low cash reserves,~~ it is the opinion of the members of this Board convened that the interests of the depositors of this bank can best be preserved by suspending business and placing the affairs of this bank in the hands of the Comptroller of the Currency:

Now Therefor: Be it hereby resolved; that the business of this bank he suspended and placed in the hands of the Comptroller of the Currency.

Dated at Rockford, Illinois this 14th day of June 1931 and signed at 8:30 P. M.

A. R. FLOBERG
Director.
H. A. TAYLOR
Director.
B. A. WILSON
Director.
OSCAR J. MILBURN
Director.
HUGO L. OLSON
Director.
E. S. EKSTROM
Director.

224 PLAINTIFF'S EXHIBIT 7.

Special Directors Meeting Held 11 A. M. June 12, 1931.
Directors Present:

L. C. Miller
Hugo L. Olson
H. A. Taylor
A. R. Floberg
K. E. Knutson
F. F. Nelson
E. S. Ekstrom

Special meeting called by President Floberg to meet National Examiner M. R. Baty.

On motion of Director Hugo L. Olson, seconded by Director E. S. Ekstrom and carried unanimously, the following resolution was adopted:

Resolved: "That Examiner M. R. Baty be authorized to discuss our condition and assets with any other Bank in Rockford towards a sale or merger".

At the suggestion of Examiner Baty, the following Committee was appointed to represent the Board in any negotiations:

President A. R. Floberg
Directors L. C. Miller
Hugo L. Olson
H. A. Taylor and
Mr. Ralph E. Thompson and
Mr. L. B. Achor, Vice President.

There being no further business, the meeting adjourned. Motion for adjournment was made and duly carried.

.....
President.

L. B. ACHOR
Secretary Pro-Tem.

225 PLAINTIFF'S EXHIBIT 8.

Deposited With
The Third National Bank
Rockford, Ill.
By Mech Univ Joint Co.
6/12/31

All Items are Credited Subject to Payment

Right is reserved and the bank is authorized to forward items for collection or payment direct to the drawee or payor bank, or through any other bank at its discretion and to receive payment in drafts drawn by the drawee or other banks, and except for negligence, this bank shall not be liable for dishonor of the drafts so received in payment nor for losses thereon.

	Dollars	Cents	Dollars	Cents
Currency			7	00
Gold			269	80
Silver			87	50
Checks	36	36	68	36
	20	00	9	55
	9	07	5	00
	42	40	52	06
	7	62	6	00
	2	86		
	8	60	1390	92
	72	00		
	103	91		
	59	72		
	80	80		
	262	40		
(4)	112	50		
	16	87		
	3	93		
	11	91		
	34	70		

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226 PLAINTIFF'S EXHIBIT 10.

Third National Bank, Rockford, Ill.
June 13, 1931.

Banking House	$126,500.00
Capital Stock—Fed. Res. Bk.	27,000.00
Five per Cent Fund	7,500.00
Bonds and Securities Pledged	400,043.53
U. S. Liberty Bonds and Cert.	916,612.50
Bonds, Securities, Etc.	377,440.18
Bills Discounted	2,889,216.44
Overdrafts	466.03
Expense	17,839.56
Interest Paid	12,530.18
Earned Uncollected Interest	33,830.65
Stock Yards Nat. Bk.	4,726.86
First National Bank, Chicago	74,370.64
Cont. Ill. Nat. Bk. & Tr. Co., Chicago	18,799.43
Irving Trust Co., New York	24,519.43
N. Newark & Essex Bkg. Co., N. J.	4,238.26
Mississippi Valley Tr. Co., St. Louis	2,103.55
Federal Reserve Bank, Chicago	186,287.86
Federal Res. Bk. Uncollected Funds	81,220.26
Transit	4,826.83
Cash	389,735.66
Total	$5,599,827.85
Capital	500,000.00
Surplus	400,000.00
Profit and Loss	115,014.07
Interest Received	45,892.53
Premium	739.35
Rent	1,816.30
Investment Dept. Profits	410.15
Reserve for Interest	28,899.90
Reserve for Taxes & Insurance	3,151.76
Unearned Collected Interest	9,173.49
Circulation	150,000.00
Treas. of State of Ill.	25,000.00
Treasurer of the United States	5,000.00
Cashiers Checks	12,385.30
Certified Checks	26,787.05

Long & Short	122.60
Bank Deposits	282,702.02
Postal Savings	28,432.49
Savings Deposits	2,308,002.55
Certificates of Deposit	28,884.81
Individual Deposits	1,594,536.06
Dividends	76.20
Third Securities Corporation	1,704.35
Trust Dept. Funds	15,651.36
United States Post Office	15,245.51
Bond Purchase Account	200.00
Total	$5,599,827.85

This is to certify that this is a true copy of the daily balance sheet of the Third National Bank as of the close of business June 13, 1931.

(Signed) E. E. THOMPSON
Cashier.

227 PLAINTIFF'S EXHIBIT 11.

36.36*
9.07
42.40
7.62
2.86
80.80
16.87
34.70
269.80
87.50
68.36
656.34*
20.00*
72.00
59.72
262.40
112.50
3.93
7.00
537.55
537.55*
8.60*
103.91

11.91
9.55
5.00
52.06
191.03
6.00
656.34
537.55
1390.92
1390.92*
(4)

228 PLAINTIFF'S EXHIBIT 12.

Special Directors Meeting Held 1:15 P. M.
June 14, 1931.

Directors Present:

President A. H. Floberg — F. F. Nelson
Hugo L. Olson — L. C. Miller
E. S. Ekstrom — H. A. Taylor, together
K. E. Knuttson — with Ralph E. Thompson,
Vice President, L. B. Achor, Cashier, H. A. Conklin.

It was then moved by Director Olson and seconded by Director Eric S. Ekstrom and duly carried that the following resolution be adopted:

Resolved: "That the Committee appointed at yesterdays special, meeting to represent the Board, be given full authority to negotiate and consummate and sign any and all instruments, notes, or other contracts necessary."

Motion made and duly carried.

A. R. FLOBERG,
President.

L. B. ACHOR
Secretary Pro-Tem.

229 PLAINTIFF'S EXHIBIT 13.

Commission

No. 3952

TREASURY DEPARTMENT

Office of Comptroller of the Currency

Washington, D. C. June 16, 1931

Whereas, from incormation on file in this bureau, I am satisfied that "The Manufacturers National Bank and Trust Company of Rockford" located in the City of Rockford, County of Winnebago, and State of Illinois is insolvent and unable to pay its just and legal debts.

Now, therefore, I, J. W. Pole, Comptroller of the Currency, in pursuance of the power and authority vested in my by law and under the provisions of Section 1 of an Act of Congress entitled "An Act authorizing the appointment of Receivers of National Banks and for other purposes," approved June 30, 1876, do hereby appoint L. B. Achor, Receiver of "The Manufacturers National Bank and Trust Company of Rockford," with all the powers, duties, and responsibilities given to or imposed upon a Receiver under the provisions of the Revised Statutes of the United States which authorize the appointment of a Receiver.

In Witness Whereof, I have hereto subscribed my name and caused my seal of office to be affixed to these presents, at the City of Washington, in the District of Columbia, this Sixteenth day of June, A. D. 1931.

J. W. POLE
Comptroller of the Currency.

230 PS K

Certificate for Certified Copy.

Treasury Department
Office of the
Comptroller of the Currency } ss.

Under the provisions of Section 884 of the Revised Statutes of the United States, I, F. G. Awalt, Acting Comptroller of the Currency, do hereby certify that the paper hereto attached is a true and complete copy of the original commission of L. B. Achor as Receiver of "The Manufacturers National Bank and Trust Company of Rockford," Illinois dated June

16, 1931, and signed J. W. Pole, Comptroller of the Currency, and of the whole of such original on file and of record in this office.

In Testimony Whereof, I have hereunto subscribed my name and caused my seal of office to be affixed to these presents at the Treasury Department, in the City of Washington and District of Columbia, this eighth day of July, A. D. 1931.

F. G. AWALT
Acting Comptroller of the Currency.

Currency Bureau
Seal of the Comptroller
of the Currency
Treasury Department

Filed for record on the 20th day of July, A. D. 1931 at 11:54 o'clock A. M. No. 322637.

JOHN A. BOWMAN,
Recorder.

231 PLAINTIFF'S EXHIBIT 14.

Mechanics Universal Joint Company — Check No.
Division of Borg-Warner Corporation — A 15294
To The
Manufacturers Nat'l Bank — Rockford, Illinois June 12, 1931
Rockford, Illinois 70-43
Pay (4) $42,761.12
To The Order Of Mechanics U. J. Co. $42761.12 Cts.
Mechanics Universal Joint Company
MECHANICS UNIVERSAL JOINT COMPANY
(Perforated) E. S. EKSTROM
Paid *President.*
6 13 31 H. E. GUSTAFSON
A. Secy. Treas.

Endorsed on back as follows:

Pay To The Order Of
Third National Bank
70-40 Rockford, Ill. 70-40
Mechanics Universal Joint Co.
(Third National Bank
Paid
Through Clearing House
Jun 13 1931
Rockford, Ill.)

232 PLAINTIFF'S EXHIBIT 15.

Mechanics Universal Joint Company
Division of Borg-Warner Corporation
To The
Manufacturers Nat'l. Bank
Rockford, Illinois 70-43

Check No.
A 15294

Rockford, Illinois June 12, 1931

Pay
To The
Order
Of
Mechanics Universal Joint Company

$42,761.12

MECHANICS UNIVERSAL JOINT COMPANY
J
President
J
Secy. Treas.

Detach Check from Remittance Sheet Before Presenting
This check is in full of Account as Itemized Below No Receipt is Desired

Remittance Sheet

Mechanics Universal Joint Company Rockford, Ill.

Date of Invoice	Register No.	Description	Charges	Credits	Balance
6/12/31		Transfer of Cash	42,761.12		

PLAINTIFF'S EXHIBIT 16

Bank Statement. In Account with Third Nat'l Bank for Month of May, 1931

RECORD OF OUTSTANDING CHECKS				BANK ACCOUNT				
Check Number	Amount √	Check Number	Amount √	Day	Description	Deposits √	Checks √	Balance on Hand √
Book Bal & Bank Bal are the same				Balance First of Month				*22,439.11
				1				
				2				
				3				
				4				
				5				
				6				
				7				
				8				
				9			*20,000.00	*2,439.11
				10				
				11		*1,092.27		*3,531.38
				12				
				13				
				14				
				15				
				16				
				17				
				18		*14,275.68		*17,807.06
				19				
				20		*660.51		*18,467.57
				21		*8,255.82		*26,723.39
				22				
				23				
				24				
				25			22,000.00	4,723.39
				26		59.32		4,782.71
				27				
				28				
				29				
				30				
				31				
				Totals				
						Checks Outstanding		
						Bank Balance		

*Indicates cancelled in original.

Plaintiff's Exhibit 16.

213

PLAINTIFF'S EXHIBIT 16

Bank Statement. In Account with Third Nat'l Bank for Month of June, 1931

RECORD OF OUTSTANDING CHECKS

Check Number	Amount √	Check Number	Amount √
15416	3.18 √	15572	50.68 √
262	1.00 √	573	109.49 √
522	29.13 √	574	135.00 √
502	774.53 √	575	75 √
697	3.08 √	576	99 √
579	9.61 √	577	179.58 √
269	480.02 √	578	4.53 √
270	262.64 √	580	16.46 √
332	11.47 √		
401	121.86 √		11,487.86
402	354.93 √	Book Bal	27,267.46
403	818.59 √		
432	527.98 √	Bank Bal	38,755.32
433	24.30 √		
434	177.16 √		
435	16.97 √		
468	4.18 √		
469	68.80 √		
470	120.56 √		
471	64.68 √		
472	4.50 √		
473	85.12 √		
491	3,434.88 √		
523	12.65 √		
524	11.83 √		
525	489.02 √		
526	225.11 √		
527	4.43 √		
528	1.25 √		
529	10.00 √		

BANK ACCOUNT

Day	Description	Deposits √	Checks √	Balance on Hand √
Balance First of Month				4,782.71
1				
2				
3		8,856.00		13,638.71
4				
5				
6				
7				
8				
9				
10			10,000.00	3,638.71
11		42,761.12		
12		1,390.92		47,790.75 √

530	33.52 √	13			
531	92.61 √	14			
532	1.47 √	15			
533	12.74 √	16		1,646.56	46,144.19
534	63.11 √			11,902.30	
536	9.26 √	17	64,138.43	18,612.58	77,767.74
537	23.52 √	18		91.13	77,658.61
504	132.81 √	19			
551	4.56 √	20		25,364.55	52,294.06
552	26.70 √	21		119.53	52,174.53
553	1,769.09 √	22			
554	32.87 √	23			
560	11.92 √	24		95.60	52,078.93
561	89.10 √	25		18,029.13	34,049.80
562	23.00 √	26	1,838.25	982.29	34,905.76
563	49.35 √	27		10,000.00	24,905.76
564	9.64 √	28			
565	1.95 √	29			
566	36.20 √	30	11,044.96	10,680.02	27,288.70
567	32.08 √	31	Corr.	21.24	27,267.46
568	7.16 √	Totals			
268	288.03 √		Checks Outstanding		
569	58.80 √		Bank Balance		
570	3.36 √				
571	24.07 √				

PLAINTIFF'S EXHIBIT 16

Bank Statement. In Account with Third Nat'l Bank for Month of May, 1931

RECORD OF OUTSTANDING CHECKS				BANK ACCOUNT				
Check Number	Amount √	Check Number	Amount √	Day	Description	Deposits √	Checks √	Balance on Hand √
Book Bal & Bank Bal are the same				Balance First of Month				22,439.11
				1				
				2				
				3				
				4				
				5				
				6				
				7				
				8				
				9			20,000.00	2,439.11
				10				
				11		1,092.27		3,531.38
				12				
				13				
				14				
				15				
				16				
				17				
				18		14,275.68		17,807.06
				19				
				20		660.51		18,467.57
				21		8,255.82		26,723.39
				22				
				23				
				24				

25		22,000.00	4,723.39
26	59.32		4,782.71
27			
28			
29			
30			
31			
Totals			

Checks Outstanding
Bank Balance

Plaintiff's Exhibit 16.

PLAINTIFF'S EXHIBIT 16

Bank Statement. In Account with Third Nat'l Bank for Month of June, 1931

RECORD OF OUTSTANDING CHECKS				BANK ACCOUNT				
Check Number	Amount √	Check Number	Amount √	Day	Description	Deposits √	Checks √	Balance on Hand √
15416	3.18	15572	50.68	Balance				
262	1.00	573	109.49	First of				
522	29.13	574	135.00	Month				4,782.71
502	774.53	575	75					
697	3.08	576	99	1				
579	9.61	577	179.58					
269	480.02	578	4.53	2				
270	262.64	580	16.46					
332	11.47			3		8,856.00		13,638.71
401	121.86		11,487.86					
402	354.93	Book Bal	27,267.46					
403	818.59			4				
432	527.98	Bank Bal	38,755.32					
433	24.30							
434	177.16			5				
435	16.97							
468	4.18			6				
469	68.80							
470	120.56			7				
471	64.68							
472	4.50			8				
473	85.12							
491	3,434.88			9				
523	12.65							
524	11.83			10			10,000.00	3,638.71
525	489.02							
526	225.11			11				
527	4.43					42,761.12		
528	1.25			12		1,390.92		47,790.75
529	10.00							

530	33.52	13			
531	92.61	14			
532	1.47	15			
533	12.74	16		1,646.56	46,144.19
534	63.11			11,902.30	
536	9.26	17	64,138.43	18,612.58	77,767.74
537	23.52	18		91.13	77,658.61
504	132.81	19			
551	4.56	20		25,364.55	52,294.06
552	26.70	21		119.53	52,174.53
553	1,769.09	22			
554	32.87	23			
560	11.92	24		95.60	52,078.93
561	89.10	25		18,029.13	34,049.80
562	23.00	26	1,838.25	982.29	34,905.76
563	49.35	27		10,000.00	24,905.76
564	9.64	28			
565	1.95	29			
566	36.20	30	11,044.96	10,680.02	27,288.70
567	32.08	31 Corr.		21.24	27,267.46
568	7.16	Totals			
268	288.03				
569	58.80				
570	3.36				
571	24.07				

Checks Outstanding
Bank Balance

215

PLAINTIFF'S EXHIBIT 16

Bank Statement. In Account with Third Nat'l Bank for Month of May, 1931

RECORD OF OUTSTANDING CHECKS				BANK ACCOUNT					
Check Number	Amount √	Check Number	Amount √	Day	Description	Deposits √	Checks √	Balance on Hand √
Book Bal & Bank Bal are the same				Balance First of Month				22,439.11
				1				
				2				
				3				
				4				
				5				
				6				
				7				
				8				
				9			20,000.00	2,439.11
				10				
				11		1,092.27		3,531.38
				12				
				13				
				14				
				15				
				16				
				17				
				18		14,275.68		17,807.06
				19				
				20		660.51		18,467.57
				21		8,255.82		26,723.39
				22				
				23				
				24				

25				4,723.39
26				4,782.71
27				
28				
29			22,000.00	
30				
31				
Totals		59.32		

Checks Outstanding
Bank Balance

PLAINTIFF'S EXHIBIT 16

Bank Statement. In Account with Third Nat'l Bank for Month of June, 1931

RECORD OF OUTSTANDING CHECKS				BANK ACCOUNT				
Check Number	Amount √	Check Number	Amount √	Day	Description	Deposits √	Checks √	Balance on Hand √
15416	3.18	15572	50.68	Balance				
262	1.00	573	109.49	First of				
522	29.13	574	135.00	Month				4,782.71
502	774.53	575	75					
697	3.08	576	99	1				
579	9.61	577	179.58					
269	480.02	578	4.53	2				
270	262.64	580	16.46					
332	11.47			3		8,856.00		13,638.71
401	121.86		11,487.86					
402	354.93	Book Bal	27,267.46					
403	818.59			4				
432	527.98	Bank Bal	38,755.32					
433	24.30							
434	177.16			5				
435	16.97							
468	4.18			6				
469	68.80							
470	120.56			7				
471	64.68							
472	4.50			8				
473	85.12							
491	3,434.88			9				
523	12.65							
524	11.83			10			10,000.00	3,638.71
525	489.02							
526	225.11			11				
527	4.43					42,761.12		
528	1.25			12		1,390.92		47,790.75
529	10.00							

530	33.52	13			
531	92.61				
532	1.47	14			
533	12.74				
534	63.11	15			
536	9.26				
537	23.52	16		1,646.56	46,144.19
504	132.81			11,902.30	
551	4.56	17	64,138.43	18,612.58	77,767.74
552	26.70				
553	1,769.09	18		91.13	77,658.61
554	32.87				
560	11.92	19			
561	89.10				
562	23.00	20		25,364.55	52,294.06
563	49.35				
564	9.64	21		119.53	52,174.53
565	1.95				
566	36.20	22			
567	32.08				
568	7.16	23			
568	288.03				
569	58.80	24		95.60	52,078.93
570	3.36				
571	24.07	25		18,029.13	34,049.80
		26	1,838.25	982.29	34,905.76
		27		10,000.00	24,905.76
		28			
		29			
		30	11,044.96	10,680.02	27,288.70
		31	Corr.	21.24	27,267.46
		Totals			

Checks Outstanding
Bank Balance

Plaintiff's Exhibit 16.

233 PLAINTIFF'S EXHIBIT 18.

Mechanics Universal Joint Company
Division of Borg-Warner Corporation

Check No.
A 15310

To The
Security National Bank
Rockford, Illinois 70-48

Rockford, Illinois June 12, 1931

Pay $35,000.00

To The
Order
Of
Mechanics Universal Joint Co.

MECHANICS UNIVERSAL JOINT COMPANY
E. S. EKSTROM
President.
H. E. GUSTAFSON
A. Secy. Treas.

Detach Check From Remittance Sheet Before Presenting
This Check Is In Full Of Account As Itemized Below No Receipt Is Desired

Remittance Sheet

Mechanics Universal Joint Company Rockford, Ill.

Date of Invoice	Register No.	Description	Charges	Credits	Balance
6/12/31		Transfer of Cash	35,000.00		

Pain Through
2 Clearing House 2
Or
Pay To The Order Of
Any Bank, Banker Or Trust Co.
Prior Endorsements Guaranteed
Jun 15 1931
The Rockford National Bank
Rockford, Ill.
C. H. Eklund, Cashier
70-41 70-41

Endorsed on back:

Pay To The Order Of
The Rockford National Bank
70-41 Rockford, Ill. 70-41
Mechanics Universal Joint Co.

51 Mechanics Machine Co.
Rockford, Illinois

Pay to the Order of	Amount of Check	Discount	Accounts Payable	Date	Check No.
Forward	57,735.11	110.75	15,084.74	.....	.....
R L Emerson √	88.07 √	.....	.....	6/12/31	15295 √
Mechanics Universal Joint Co √	35,000.00 √	.....	.....	6/12/31	15310 √
Total	**92,823.18**	**110.75**	**15,084.74**	.....	.....
Previous Total	83,922.10	113.86	9,571.87	.....	.....
Total to Date	**176,745.28**	**224.61**	**24,656.61**	.....	.....
Cash	25.00	.....	.....	6/13/31	15333
Cash	80.00	.....	.....	6/13/31	15334
Cash	75.00	.....	.....	6/13/31	15335
Frank Smith	65.00	.....	.....	6/13/31	15362
Total	**245.00**	.....	.....	.....	.....
Previous Total	176,745.28	224.61	24,656.61	.....	.....
Total to Date	**176,990.28**	**224.61**	**24,656.61**	.....	.....
Cash To Cancel Check	25.00	.....	.....	6/13/31	15333
Cash Do	80.00	.....	.....	6/13/31	15334
Cash Do	75.00	.....	.....	6/13/31	15335
Frank Smith Do	65.00	.....	.....	6/13/31	15362
Total	**245.00**	.....	.....	.....	.....
Previous Total	176,990.28	224.61	24,656.61	.....	.....
Total to Date	**176,745.28**	**224.61**	**24,656.61**	.....	.....
Elmer Strand City Clerk √	38.25 √	.....	38.25 √	6/16/31	15331 √
Cash √	25.00 √	.....	.....	6/13/31	15333 √
Cash √	80.00 √	.....	.....	6/13/31	15334 √
Cash √	75.00 √	.....	.....	6/13/31	15335 √
Cash √	90.50 √	.....	90.50 √	6/15/31	15398 √
Postmaster √	15.00 √	.....	.....	6/15/31	15399 √
Ralph Ebert √	102.80 √	.....	.....	6/15/31	15400 √
Postmaster √	16.96 √	.....	16.90 √	6/16/31	15408 √
Illinois Central R R Co √	6.12 √	.....	6.12 √	6/16/31	15409 √
National Freight Company √	.65 √	.....	.65 √	6/16/31	15410 √
C B & Q R R Co √	20.74 √	.....	20.74 √	6/16/31	15411 √
C & N W R R Co √	47.41 √	.....	47.41 √	6/16/31	15412 √
C M St P & Pac R R Co √	1,128.13 √	23.02	1,151.15 √	6/16/31	15413 √
Interstate Iron & Steel Company √	838.19 √	16.97	855.16	6/16/31	15415 √
Rockford National Bank √ (Hyatt Roller Brg & Belw. Sons Mach)	113.18 √	2.31	115.49 √	6/15/31 √	15336 √
Armour & Company √	33.17 √	.68	33.85 √	6/15/31	15337 √
American Felt Company √	7.48 √	.15	7.63 √	6/15/31	15338 √
American Optical Company √	119.34 √	2.43	121.77 √	6/15/31	15339 √
Aetna Ball Bearing Mfg Co √	20.31 √	.21	20.52 √	6/15/31	15340 √
W D Allen Manufacturing Co √	5.94 √	.06	6.00 √	6/15/31	15341 √
Amco Sales Corp √	253.81 √	5.17	258.68 √	6/15/31	15342 √
Armstrong Cork Company √	24.64 √	.77	25.41 √	6/15/31	15343 √
American Insulator Corporation √	22.77 √	.23	23.00 √	6/15/31	15344 √
Blackhawk Paper & Cordage Co √	12.69 √	.26	12.95 √	6/15/31	15345 √
The Bunting Brass & Bronze Co √	3,097.78	35.29	2,835.27	.....	.....
Forward					

*Indicates cancelled in original.
†Indicates bold-face—red in original.
Figures in bold-face indicates red in original.

PLAINTIFF'S EXHIBIT 18A.
Journal of Disbursements

...e Co.
...is

Month of June 1931 — Sheet No. 51

...e Order of	Amount of Check	Discount	Accounts Payable	Date	Check No.	Third Nat'l Bank	Swed.-Amer. Nat'l Bank	Manufacturers Nat'l Bank	Peoples Bank & Trust Co.	Rockford Nat'l Bank	Security Nat'l Bank	Miss. Valley Trust Co.	General Ledger Account Name	General Ledger Number	General Ledger Amount	√
.....	57,735.11	110.75	15,084.74	.....	.....	.....	.....	43,190.18	.....	.....	14,544.93	.....	.....	.....	42,761.12	..
..... √	88.07 √	.....	.....	6/12/31	15295 √	.....	.....	.....	.....	.....	88.07	.....	.....	*24	88.07	..
...int Co ..... √	35,000.00 √	.....	.....	6/12/31	15310 √	.....	.....	.....	.....	.....	35,000.00	.....	.....	*31D	35,000.00	..
.....	**92,823.18**	**110.75**	**15,084.74**	.....	.....	.....	.....	**43,190.18** √	.....	.....	**49,633.00** √	.....	.....	.....	**77,849.19**	..
.....	83,922.10	113.86	9,571.87	.....	.....	10,000.00	.....	57,612.11	.....	.....	16,309.99	.....	.....	.....	74,464.09	..
.....	**176,745.28**	**224.61**	**24,656.61**	.....	.....	**10,000.00**	.....	**100,802.29**	.....	.....	**65,942.99**	.....	.....	.....	**152,313.28**	..
.....	25.00	.....	.....	6/13/31	15333	.....	.....	.....	.....	.....	.....	.....	.....	50	25.00	..
.....	80.00	.....	.....	6/13/31	15334	.....	.....	.....	.....	.....	.....	.....	.....	50	80.00	..
.....	75.00	.....	.....	6/13/31	15335	.....	.....	.....	.....	.....	.....	.....	.....	50	75.00	..
.....	65.00	.....	.....	6/13/31	15362	.....	.....	.....	.....	.....	.....	.....	.....	50	65.00	..
.....	**245.00**	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	**245.00**	..
.....	176,745.28	224.61	24,656.61	.....	.....	10,000.00	.....	100,802.29	.....	.....	65,942.99	.....	.....	.....	152,313.28	..
.....	**176,990.28**	**224.61**	**24,656.61**	.....	.....	**10,000.00**	.....	**101,047.29**	.....	.....	**65,942.99**	.....	.....	.....	**152,558.28**	..
...eck	25.00	.....	.....	6/13/31	15333	.....	.....	25.00	.....	.....	.....	.....	.....	50	25.00	..
.....	80.00	.....	.....	6/13/31	15334	.....	.....	80.00	.....	.....	.....	.....	.....	50	80.00	..
.....	75.00	.....	.....	6/13/31	15335	.....	.....	75.00	.....	.....	.....	.....	.....	50	75.00	..
.....	65.00	.....	.....	6/13/31	15362	.....	.....	65.00	.....	.....	.....	.....	.....	50	65.00	..
.....	**245.00**	.....	.....	.....	.....	.....	.....	**245.00**	.....	.....	.....	.....	.....	.....	**245.00**	..
.....	176,990.28	224.61	24,656.61	.....	.....	10,000.00	.....	101,047.29	.....	.....	65,942.99	.....	.....	.....	152,558.28	..
.....	**176,745.28**	**224.61**	**24,656.61**	.....	.....	**10,000.00**	.....	**100,802.29**	.....	.....	**65,942.99**	.....	.....	.....	**152,313.28**	..
...k ..... √	38.25 √	.....	38.25 √	6/16/31	15331 √	38.25 √	.....	.....	.....	.....	.....	.....	.....	†105B *50 √	25.00	..
..... √	25.00 √	.....	.....	6/13/31	15333 √	25.00 √	.....	.....	.....	.....	.....	.....	.....	†105B *50 √	80.00	..
..... √	80.00 √	.....	.....	6/13/31	15334 √	80.00 √	.....	.....	.....	.....	.....	.....	.....	†105B *50 √	75.00	..
..... √	75.00 √	.....	.....	6/13/31	15335 √	75.00 √	.....	.....	.....	.....	.....	.....	.....	.....	.....	..
..... √	90.50 √	.....	90.50 √	6/15/31	15398 √	90.50 √	.....	.....	.....	.....	.....	.....	√ Ralph Ebert	†105A *24 √	15.00	..
..... √	15.00 √	.....	.....	6/15/31	15399 √	15.00 √	.....	.....	.....	.....	.....	.....	√ Packard	†103 *21 √	102.80	..
..... √	102.80 √	.....	.....	6/15/31	15400 √	102.80 √	.....	.....	.....	.....	.....	.....	.....	.....	.....	..
..... √	16.96 √	.....	16.90 √	6/16/31	15408 √	16.96 √	.....	.....	.....	.....	.....	.....	.....	.....	.....	..
...ny ..... √	6.12 √	.....	6.12 √	6/16/31	15409 √	6.12 √	.....	.....	.....	.....	.....	.....	.....	.....	.....	..
..... √	.65 √	.....	.65 √	6/16/31	15410 √	.65 √	.....	.....	.....	.....	.....	.....	.....	.....	.....	..
..... √	20.74 √	.....	20.74 √	6/16/31	15411 √	20.74 √	.....	.....	.....	.....	.....	.....	.....	.....	.....	..
..... √	47.41 √	.....	47.41 √	6/16/31	15412 √	47.41 √	.....	.....	.....	.....	.....	.....	.....	.....	.....	..
...Company ..... √	1,128.13 √	23.02	1,151.15 √	6/16/31	15413 √	1,128.13 √	.....	.....	.....	.....	.....	.....	.....	.....	.....	..
..... √	838.19 √	16.97	855.16	6/16/31	15415 √	838.19	E.RR	.....	.....	838.19 √	.....	.....	.....	.....	.....	..
...Belw. Sons Mach)						838.19	S/B Rfd Natl	.....	.....	113.18 √	.....	.....	.....	.....	.....	..
..... √	113.18 √	2.31	115.49 √	6/15/31 √	15336 √	.....	.....	.....	.....	33.17 √	.....	.....	.....	.....	.....	..
..... √	33.17 √	.68	33.85 √	6/15/31	15337 √	.....	.....	.....	.....	7.48 √	.....	.....	.....	.....	.....	..
...any ..... √	7.48 √	.15	7.63 √	6/15/31	15338 √	.....	.....	.....	.....	119.34 √	.....	.....	.....	.....	.....	..
...Co ..... √	119.34 √	2.43	121.77 √	6/15/31	15339 √	.....	.....	.....	.....	20.31 √	.....	.....	.....	.....	.....	..
...g Co ..... √	20.31 √	.21	20.52 √	6/15/31	15340 √	.....	.....	.....	.....	5.94 √	.....	.....	.....	.....	.....	..
..... √	5.94 √	.06	6.00 √	6/15/31	15341 √	.....	.....	.....	.....	253.51 √	.....	.....	.....	.....	.....	..
...ny ..... √	253.81 √	5.17	258.68 √	6/15/31	15342 √	.....	.....	.....	.....	24.64 √	.....	.....	.....	.....	.....	..
...oration ..... √	24.64 √	.77	25.41 √	6/15/31	15343 √	.....	.....	.....	.....	22.77 √	.....	.....	.....	.....	.....	..
...dage Co ..... √	22.77 √	.23	23.00 √	6/15/31	15344 √	.....	.....	.....	.....	12.69 √	.....	.....	.....	.....	.....	..
...onze Co ..... √	12.69 √	.26	12.95 √	6/15/31	15345 √	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	..
.....	3,097.78	35.29	2,835.27	.....	.....	1,646.56	.....	.....	.....	1,451.22	.....	.....	.....	.....	297.80	..

...ed in original.
...ce—red in original.
...e indicates red in original.

235
50 Mechanics Machine Co.
Rockford, Illinois

PLAINTIFF'S EXHIBIT 19.
Journal of Disbursements

Month of June 1931

Sheet No. 50

Pay to the Order of	Amount of Check	Discount	Accounts Payable	Date	Check No.	Third Nat'l Bank	Swed.-Amer. Nat'l Bank	Manufacturers Nat'l Bank	Peoples Bank & Trust Co.	Rockford Nat'l Bank	Security Nat'l Bank	Miss. Valley Trust Co.	General Ledger Account Name	General Ledger Number	General Ledger Amount	√
Forward **Total**	25,191.61		291.61					25,291.61							25,000.00	
Previous Total	26,743.52	10.59	1,600.01					14,243.52			12,500.00				25,154.10	
Total to Date	**52,035.13**	**10.59**	**1,891.62**					**39,535.13**			**12,500.00**				**50,154.10**	
Private Pay Roll	3,809.99			6/ 9/31							3,809.99 √			151B *32 √	3,809.99	
Mechanics Universal Joint Company	10,000.00			6/ 9/31	15178	10,000.00 √								101F *32 √	10,000.00	
Mechanics Universal Joint Company	10,500.00			6/ 9/31	15179			10,500.00 √						101F *32 √	10,500.00	
Total	**24,309.99**					**10,000.00** √		**10,500.00** √			**3,809.99** √				**24,309.99**	
Previous Total	52,035.13	10.59	1,891.62					39,535.13			12,500.00				50,154.10	
Total to Date	**76,345.12**	**10.59**	**1,891.62**					**50,035.13**			**16,309.99**				**74,464.09**	
The Bunting Brass & Bronze Co √	9.61	.20	9.81 √	6/10/31	15181			9.81								
Borg Warner Corporation √	1,411.51		1,411.51 √	6/10/31	15182			1,411.51								
The Carborundum Co √	130.66	2.67	133.33 √	6/10/31	15183			130.66								
Globe Steel Tubes Company √	2,436.87	50.76	2,487.63 √	6/10/31	15184			2,436.87 √								
Hyatt Roller Bearing Co √	825.16	16.84	842.00 √	6/10/31	15185			825.16								
Miller Rubber Products Co √	360.56	7.36 √	367.92 √	6/10/31	15186			360.56								
The New Departure Manufacturing Co √	774.53	15.81	790.34 √	6/10/31	15187			774.53								
The Reliance Manufacturing Co √	56.52	1.15 √	57.67 √	6/10/31	15188			56.52								
Steel & Tubes, Inc √	1,451.37	7.29	1,458.60 √	6/10/31	15189			1,451.37								
Vacuum Oil Company √	21.38	.22	21.60 √	6/10/31	15190			21.38 √								
Keener Manufacturing Co √	57.42	.58	58.00 √	6/10/31	15191			57.42								
Rockford Wholesale Grocery Co √	11.86	.24	12.10 √	6/10/31	15192			11.86 √								
Federal Steel Corporation √	29.53	.15	29.68 √	6/10/31	15193			29.53								
Total	**7,576.98**	**103.27**	**7,680.25**					**7,576.98** √								
Previous Total	76,345.12	10.59	1,891.62			10,000.00		50,035.13			16,309.99				74,464.09	
Total to Date	**83,922.10**	**113.86**	**9,571.87**			**10,000.00**		**57,612.11**			**16,309.99**				**74,464.09**	
Rockford Drop Forge Company √	14,544.93 √	109.89	14,654.82 √	6/12/31	15266						14,544.93 √					
Jubilee Committee √	10.00 √		10.00 √	6/12/31	15273			10.00								
Rockford Milwaukee Dispatch √	22.92 √		22.92 √	6/12/31	15274			22.92								
Universal Carloading & Distributing Co √	10.17 √		10.17 √	6/12/31	15275			10.17								
National Freight Company, Inc √	192.41 √		192.41 √	6/12/31	15276			192.41								
Keeshin Motor Express Company √	3.18 √		3.18 √	6/12/31	15277			3.18								
Railway Express Agency, Inc √	31.33 √		31.33 √	6/12/31	15278			31.33								
Chicago & North Western Ry. Co √	6.88 √		6.88 √	6/18/31	15279			6.88								
Illinois Central R. R. Co √	65.35 √		65.35 √	6/12/31	15280			65.35								
C. M. St. P. & Pac. R. R. Co √	1.33 √		1.33 √	6/12/31	15281			1.33								
Belvidere Screw & Machine Co √	13.03 √	.13	13.16 √	6/12/31	15282			13.03								
Bliss & Laughlin, Inc √	17.57 √	.09	17.66 √	6/12/31	15286			17.57								
Crane Company √	1.47 √	.02	1.49 √	6/12/31	15287			1.47								
Central Motor Parts Company, Inc √	15.76 √	.32	16.08 √	6/12/31	15288			15.76								
Holmquist Lumber & Fuel Co √	1.77 √	.03	1.80 √	6/12/31	15289			1.77 √								
Jones & Laughlin Steel Corp √	1.08 √		1.08 √	6/12/31	15290			1.08								
Stewart Warner Corp √	2.10 √	.04	2.14 √	6/12/31	15291			2.10								
Pratt & Whitney Company √	11.47 √	.23	11.70 √	6/12/31	15292			11.47								
Third National Bank √	21.24 √		21.24 √	6/12/31	15293			21.24								
Mechanics Universal Joint Company √	42,761.12 √			6/12/31	15294			42,761.12 √						101A *31A √	42,761.12	
Forward	57,735.11	110.75	15,084.74					43,190.18			14,544.93				42,761.12	

*Indicates cancelled in original.
†Indicates bold-face—red in original.
Figures in bold-face indicates red in original.

236 PLAINTIFF'S EXHIBIT 20.

Make check to Mech
Univ Jt Co
for 42,761.12
Draw on Mfrs. Nat'l
Bank

(Mechanics Universal
Joint Company
Paid
Jun 13 1931

Trans. of Cash

By.....
Rockford, Ill.*)

237 PLAINTIFF'S EXHIBIT 22.

Checks in Detail
from
Manufacturers National Bank
and Trust Co.
Mech. Universal Joint
4-17-1931

2,117.29*	
24.28	
9.26	
5.35	
13.75	
543.61	
10.22	
1,293.60	
278.69	(Perforated)
9.99	Paid
1.57	4 17 31
2.74	
11.14	
1.00	
4.02	
2.94	
37.57	
91.87	
6.17	
90.64	
206.53	
4,762.23*	

238	4-20-1931	
	18.46	
	237.83	
	218.03	
	38.72	
	11.76	
	7.98	
	556.02	(Perforated)
	86.24	Paid
	100.00	4 20 31
	97.00	
	50.00	
	15.00	
	9.02	
	428.73	
	1,874.99	
239	4-21-1931	
	21.73*	
	21.19	
	159.35	
	113.82	
	37.73	
	9.11	
	24.05	
	16.23	
	435.60	(Perforated)
	84.74	Paid
	648.00	4 21 31
	.65	
	44.55	
	79.79	
	10.90	
	1,707.44*	
	1,707.44*	
	18.19	
	13.28	
	1,738.91*	

240	4-22-1931	
	18.00*	
	21.38	
	6.30	
	52.61	(Perforated)
	2,076.56	Paid
	42.58	4 22 31
	148.30	
	6.24	
	.50	
	2,372.27''	
241	4-23-1931	
	58.93	
	4.12	
	17.76	
	21.00	
	156.21	(Perforated)
	4.45	Paid
	22.65	4 23 31
	.38	
	4.58	
	43.12	
	334.20	
242	4-24-1931	
	75.95*	
	39.67	
	7.96	(Perforated)
	173.95	Paid
	30.47	4 24 31
	14.18	
	7.36	
	349.54*	

243		5-2-1931	
		298.48	
		98.03	
		39.20	
		1,903.35	
		518.36	
		34.30	
		5.07	(Perforated)
		2.40	Paid
		25.93	5 2 31
		204.70	
		50.00	
		23.71	
		6.55	
		19.50	
		107.47	
		229.00	
		388.08	
		132.30	
		4,086.43	
244	May	4-4-1931	
		26.35*	
		1.80	
		33.01	
		17.11	
		53.90	
		.41	
		3,791.47	
		19.00	
		1.47	
		8.56	(Perforated)
		25.00	Paid
		.63	5 4 31
		1.49	
		2.44	
		86.64	
		1.95	
		8.57	
		125.00	
		53.90	
		5.54	
		8.13	
		8.38	
		4,280.75*	

245	5-5-1931	
	11.17	
	29.92	
	12.50	
	86.73	
	887.98	
	1,088.77	
	34.40	
	2,995.12	(Perforated)
	81.46	Paid
	7.62	5 5 31
	3.49	
	1.61	
	105.11	
	80.38	
	9.74	
	217.10	
	10.00	
	55.88	
	8.91	
	5,727.89*	
246	5-18-1931	
	5.67*	
	1,095.15	
	6.76	
	2.07	
	5.05	
	8.58	
	33.75	
	11,378.59	
	364.90	(Perforated)
	116.90	Paid
	2.64	5 18 31
	166.83	
	38.71	
	229.83	
	5.78	
	239.13	
	2.34	
	7.12	
	.78	
	17.25	
	2.64	
	6.75	
	16.23	
	14,121.25*	

247	5-19-1931	
	243.04*	
	4.90	
	188.23	
	1,281.43	
	7.64	
	11.25	
	21.35	
	18.85	
	56.42	(Perforated)
	10.81	Paid
	7.60	5 19 31
	1.21	
	.75	
	.75	
	23.68	
	.50	
	1.46	
	26.19	
	46.42	
	5.59	
	15.29	
	1,973.76*	
248	5-20-1931	
	71.38*	
	48.63	
	217.30	
	16.42	
	69.35	
	10.50	
	3.69	(Perforated)
	33.96	Paid
	4,854.83	5 20 31
	10.85	
	21.02	
	24.46	
	46.61	
	13.23	
	1.65	
	5,443.88*	

249	5-22-1931	
	29.15*	
	135.25	
	9.98	
	154.35	
	445.25	
	1,166.21	(Perforated)
	10.80	Paid
	24.00	5 22 31
	5.40	
	1.36	
	1.78	
	27.73	
	2,011.26*	
250	6-2-1931	
	7.58*	
	25.00	
	.75	
	15.48	
	58.80	
	44.59	
	206.28	
	.75	
	10.89	
	15.09	
	.54	
	2.08	(Perforated)
	284.20	Paid
	995.04	6 2 31
	15.44	
	86.24	
	118.99	
	2.18	
	2.33	
	262.59	
	170.63	
	2,325.47*	
	2,325.47*	
	40.00	
	103.31	
	67.94	
	2,536.72*	

251	6-3-1931	
	8.19*	
	55.00	
	10.58	
	12.56	
	2.16	
	40.03	
	13.71	
	305.32	
	2.57	(Perforated)
	67.37	Paid
	7.77	6 3 31
	23.27	
	450.31	
	13.10	
	35.14	
	29.64	
	34.45	
	2.16	
	1.24	
	1.59	
	44.10	
	1,160.26*	
252	6-5-1931	
	122.50*	
	218.78	
	264.35	
	34.40	
	1.26	(Perforated)
	275.00	Paid
	4.30	6 5 31
	254.80	
	6.30	
	65.09	
	.65	
	1,247.43*	
253	6-6-1931	
	279.10*	
	12,500.00	
	19.34	(Perforated)
	1,329.49	Paid
	15.29	6-6-31
	77.26	
	14,220.48*	

254

6-10-1931	
25,000.00*	
10,500.00	
28.41	
8.23	
1.86	(Perforated)
7.78	Paid
7.21	6 10 31
23.68	
4.43	
.75	
1.15	
5.83	
35,589.33*	

255 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption) * *

STIPULATION.

It is hereby stipulated and agreed by and between plaintiff herein by C. H. Linscott and Roy Hall, his solicitors, and the defendants herein, by S. R. Kenworthy and Shelby L. Large, their solicitors, that original of certain Exhibits introduced in evidence by the plaintiff at the trial of the above entitled cause, and numbered Plaintiff's Exhibit 22, Plaintiff's Exhibit 23, Plaintiff's Exhibit 24, and Plaintiff's Exhibit 25 may be forwarded by the Clerk of the District Court to the Clerk of the Circuit Court of Appeals of the Seventh Circuit with the record in said cause for examination by said Circuit Court of Appeals in connection with said appeal; that this stipulation may be inserted in the transcript of record in lieu of said Plaintiff's Exhibits 22-23-24-25.

C. H. LINSCOTT,
Solicitor for Plaintiff.

S. R. KENWORTHY,
SHELBY L. LARGE,
Solicitors for Defendants.

256 PLAINTIFF'S EXHIBIT 26.

Regular Directors Meeting December 12, 1930

Directors Present:

H. A. Taylor	Hugo L. Olson
Oscar Milburn	K. E. Knutsson
C. E. Lindberg	E. S. Ekstrom
A. R. Floberg	F. F. Nelson

Fred Peterson

Minutes of November meeting were read and approved.

List of new loans from #123395 to #123929

Discount Loans	$132,105.00
Discounts	29,827.66
Total	$161,932.66

was read and approved upon motion by Director Knutsson seconded by director Milburn. Itemized expense accounts for month of November totalling $9,099.98 was read and approved on motion by Director Ekstrom seconded by Director Olson. Director Lindberg inquired about Illinois Veneer Company Discount this line reported reduced from $25,000 to $8000 and items taken now good current trade paper.

Director Knutsson inquired about R. R. Shirley loan $200.00. It was reported that Shirley carried respectable account and borrows only small amounts for short periods. Resolution granting authority to officers of this bank to rediscount and borrow on collateral at Federal Reserve Bank of Chicago was passed upon motion by director Olson, seconded by Director Ekstrom. Copy of resolution on file with minutes.

Resolution granting authority to officers of this bank to rediscount and borrow on collateral at The Continental Illinois Bank and Trust Company, Chicago, was passed upon motion by Director Nelson, seconded by Director Lindberg, copy of resolution on file with minutes.

The following resolution was passed upon motion by director Olson seconded by Director Milburn.

Resolution:

Resolved that The Manufacturers National Bank and Trust Company of Rockford, Illinois, as Trustee for the Estate of A. C. Deming, be and is hereby authorized to sell for this Estate at price offered, ten shares of The Peoples Bank &

Trust Company of Rockford, Illinois, stock proceeds to be credited to this estate account.

Report of earnings and expenses for month of November, 1930 was handed each director and copy filed with minutes.

Complying with recommendation of Chief Examiner Leyburn, no quarterly dividend was voted at this meeting.

257 It was agreed that directors should meet Monday evening December 15th for the purpose of reviewing all of the bank loans.

There being no further business the meeting was adjourned upon motion by director Ekstrom, seconded by director Nelson.

H. A. CONKLIN
Secretary

A. R. FLOBERG
Pt.

258 Resolution of Bank Board of Directors

I, H. A. Conklin, Do Hereby Certify, that I am the duly (elected) (~~*appointed*~~) and qualified (Cashier) (~~*Secretary*~~) and the keeper of the records and corporate seal of The Manufacturers National Bank and Trust Company of Rockford, Illinois, a banking corporation organized and doing business under the (Laws of the State of Illinois) (National Banking Act of the United States of America) and having its principal place of business at Rockford, in the State of Illinois, and that the following is a true and correct copy of a certain resolution duly adopted at a regular meeting of the Board of Directors of said Bank, convened and held in accordance with the laws and the by-laws of said Bank on the 12th day of December, 1930, and that such resolution is now in full force and effect:

"Be It Resolved, that the officers of this Bank be and each of them is hereby authorized and empowered to borrow, on behalf of this Bank, from Continental Illinois Bank and Trust Company, Chicago, Illinois, from time to time, such sums of money, on such terms and conditions, as to any of them shall seem best, and to modify, extend or renew any and all or any part of loans so made until same are fully paid with interest; and to give, sign, execute and deliver the obligation or obligations of this Bank in evidence of such loan or loans, in such form and with such conditions, terms, stipulations, provisions and waivers, as such officer or person may deem proper and to pledge for the payment of any such loan or loans, or exten-

sion or renewal thereof, or any indebtedness, obligation or liability of this Bank, the securities, assets or property of this Bank, and to make withdrawals substitutions and/or exchanges of, to receive and receipt for, and to remove upon trust receipt any and all collateral so pledged as aforesaid at the risk of this Bank, which hereby agrees to indemnify said Continental Illinois Bank and Trust Company against any loss arising out of the acts of said officers or persons, or any of them, with respect to said collateral; and they and each of them are hereby further authorized and empowered to rediscount with said Continental Illinois Bank and Trust Company the bills receivable of this Bank and to enter into sale and repurchase agreements respecting any securities, assets and property of this Bank, upon such terms and conditions as to any of them shall seem best, and, for any of the purposes aforesaid, to endorse, assign, transfer and/or deliver, in the name of this Bank, its accounts, bills receivable, securities and/or other property; and said Continental Illinois Bank and Trust Company may at any time appropriate and apply any money or property of this Bank to the payment of any indebtedness, obligations or liabilities from this Bank to it, whether or not due or accrued; and each and every act of the officers of this Bank in heretofore transacting business of the several kinds aforesaid with said Continental Illinois Bank and Trust Company are hereby ratified, confirmed and approved.

And Be It Further Resolved, that the Cashier or any other officer of this Bank be and hereby is authorized to certify to said Continental Illinois Bank and Trust Company a copy of these resolutions and the names and signatures of the officers or employees of this Bank thereby authorized to act in the premises, and said Trust Company is hereby authorized to rely upon such certificate until formally advised by a like certificate of any changes therein; and is authorized to rely on any such additional certificates.

259 In Witness Whereof, I have affixed my name as (Cashier) (Secretary) and have caused the corporate seal of said Bank to be hereunto affixed this 19th day of December, 1930.

H. A. CONKLIN
Cashier

I, A. R. Floberg, a Director of said Bank, do hereby certify that the foregoing is a correct copy of a resolution passed as therein set forth.

A. R. FLOBERG

260 PLAINTIFF'S EXHIBIT 26a.

Authority to Rediscount and to Borrow on Collateral

Whereas, this Bank is a stockholder in the Federal Reserve Bank of Chicago; and

Whereas, it is highly desirable that this Bank should from time to time be able to rediscount its bills receivable with the Federal Reserve Bank of Chicago and be able from time to time to borrow money from the Federal Reserve Bank of Chicago on its own obligation secured by a pledge of its own bills receivable;

Now, Therefore, Be It Resolved:

First: That the President, or any Vice-President, or the Cashier, or any Assistant Cashier or any other executive officer of this Bank, or any one of them, is hereby authorized to rediscount from time to time with the Federal Reserve Bank of Chicago notes, drafts, acceptances, bills of exchange and other bills receivable of this Bank in such amounts and upon such terms as may to them or any one of them seem advisable; and such officer or officers are hereby authorized to secure the liability of this Bank arising out of the endorsement of such notes, drafts, acceptances, bills of exchange and other bills receivable of this Bank so rediscounted by pledging to and depositing with said Federal Reserve Bank of Chicago as collateral thereto, any of the bills receivable of this Bank duly endorsed or any bonds, notes, securities or other assets owned by this Bank, in such amounts and upon such terms as may to them or to any one of them seem advisable.

Second: That the President, or any Vice-President, or the Cashier, or any Assistant Cashier or any other executive officer, of this Bank, or any one of them, is hereby authorized to borrow money from time to time from the Federal Reserve Bank of Chicago, in such amounts and upon such terms as may to them or any one of them seem advisable, and to execute and deliver the note of this Bank therefor, and such officer or officers are hereby authorized to secure such note or notes of this Bank by depositing as collateral thereto any of the bills receivable of this Bank duly endorsed, or by depositing or pledging as collateral thereto, any bonds or notes of the United States owned by this Bank, in such amounts and upon such terms as may to them or any one of them seem advisable.

Third. That each and every of said officers in connection with offering said bills receivable or any of them for discount

or in connection with depositing said bills receivable as collateral security, is hereby authorized to endorse in behalf of this Bank any such bills receivable, now or hereafter owned by this Bank, for the purpose of rediscounting the said bills receivable, with the Federal Reserve Bank of Chicago, or for the purpose of depositing such bills receivable with said Bank as collateral security, and any such endorsement shall be deemed a waiver of demand, notice, and protest by this Bank as to its own endorsement exclusively.

Fourth: That the foregoing powers conferred upon each and every of such officers shall continue until express notice of their revocation has been duly given in writing to the said Federal Reserve Bank of Chicago.

Fifth: That the Cashier of this Bank (the Secretary of the Board of Directors) be and he is hereby requested to
261 deliver to the Federal Reserve Bank of Chicago a certified copy of this resolution.

I, the undersigned, do hereby certify that the foregoing is a true and correct copy of a resolution of the Board of Directors of the The Manufacturers National Bank & Trust Co. Bank of Rockford, Illinois duly passed at a regular meeting of the said Board, held at Rockford, Ill. on the 12th day of Dec. 1930, a quorum being present, as fully and completely as the said resolution remains of record in the minutes of said meeting, and that said resolution has not been rescinded or modified.

In Witness Whereof, I have hereunto subscribed my name and affixed the corporate seal of said The Manufacturers National Bank & Trust Co. Rockford, Illinois Bank at Rockford, Ill. this 13th day of Dec. 1930.

H. A. CONKLIN
Cashier.

(Seal)

Secretary Board of Directors.

262 PLAINTIFF'S EXHIBIT 32.

This Agreement made and entered into this eleventh day of June A. D. 1931, by and between the Swedish-American National Bank of Rockford, Illinois, party of the first part, and the Security National Bank of Rockford, Illinois, party of the second part, both being corporations duly organized and incorporated under the National Banking Act, Witnesseth, That

Whereas the first party has submitted to the second party

a proposal that first party purchase the assets and assume the liabilities of the second party, as shown by the books of the second party, at the close of business on the 13th day of June, A. D. 1931, upon certain terms to be set out fully in a contract to be entered into by and between the parties thereto, subject to an appraisal of the assets by the party of the first part, and subject, also, to the approval of the Comptroller of the Currency.

The Second party hereby agrees to transfer, assign and convey to the first party all of its assets on hand at the close of business on the 13th day of June, A. D. 1931, the same to be fully set out in the contract above mentioned.

This Obligation shall be binding upon the parties hereto, the successors and assigns of each.

In Witness Whereof the Swedish-American National Bank of Rockford, Illinois, party of the first part has caused these presents to be signed by its President and attested by its Cashier, in duplicate, and the Security National Bank of Rockford, Illinois, party of the second part, has caused these presents to be signed by its President ~~*and attested by its Secretary*~~ in duplicate, all at Rockford, Illinois, on the day and year first above written.

SWEDISH AMERICAN NATIONAL BANK
By J. A. AUFEN
Its President

Attest:—
G. A. PETERSON
Cashier
Its Secretary.

SECURITY NATIONAL BANK
By TRUMAN JOHNSON
Its President.

Attest:—

.....
Its Secretary.

263 PLAINTIFF'S EXHIBIT 33.

Name No.

Forgings & Stampings Inc. 30994

I Hereby Agree to the Savings Department Rules and Regulations of The Manufacturers National Bank & Trust Co.
Rockford, Ill.

Signature Forgings & Stampings Inc.
c/o Frank P. Franzen
Residence 23rd Ave. & 7th St. Date
Occupation Place
Mother's Name
Father's Name
Wife's
Husband's Dec 17 1930
Identified by

Presented and approved October 30, 1934.

CHARLES E. WOODWARD,
U. S. District Judge.

197 DEFENDANT'S EXHIBIT 1.

Close of Business
June 1, 1931

Continental		$ 6,770.39	
C/D "		250,000.00	
Union Trust		295.70	
National City		2,116.02	
Federal		290,702.90	
Fed. Transit		37,724.63	
Chase		12,611.74	
Commerce		858.65	
Cash		208,898.04	$809,978.07
Bills Rec.			2,429,478.54
Deposits:	City	1,070,005.57	
	Ind.	1,167,551.44	
	Sav.	1,853,680.95	
	Other	319,264.18	4,410,549.00
Bonds		331,181.30	
Bankers Accept.		499,750.32	
Com'l. paper		70,000.00	
Avail Fed.		10,191.50	
Pledged with City Treas:			
Bankers Accept.		499,750.32	
C/D		250,000.00	
General Motors		50,000.00	
Univ. Credit		20,000.00	
B. R.		244,900.00	
		1,064,650.32	

198 DEFENDANT'S EXHIBIT 2.

Close of Business
June 6, 1931

Continental		$99,568.20	
C/D "		250,000.00	
Union Trust		294.05	
National City		2,116.02	
Federal		247,964.60	
Fed. Transit		32,294.14	
Chase		74,401.80	
Commerce		868.57	
Cash		121,373.91	$828,881.29
Bills Rec.			2,409,220.29
Deposits:	City	1,178,546.80	
	Ind.	1,107,627.99	
	Sav.	1,840,234.73	
	Other	323,994.17	4,450,403.00
Bonds		377,081.30	
Bankers Accept.		499,750.32	
Com'l paper		70,000.00	
Avail Fed.		9,424.27	
Pledged with City Treas:			
Bankers Accept.		499,750.32	
C/D		250,000.00	
General Motors		50,000.00	
Univ. Credit		20,000.00	
B. R.		65,400.00	
		1,124,050.32	

199 DEFENDANT'S EXHIBIT 3.

Close of Business
June 12, 1931

Continental		$ 2,518.56	
C/D "		250,000.00	
Union Trust		294.05	
National City		2,116.02	
Federal		244,775.24	
Fed. Transit		47,783.23	
Chase		6,933.22	
Commerce		868.57	
Cash		411,452.74	966,741.63
Bills Rec.			2,376,355.91
Deposits:	Demand Cert.	235,103.60	
	Ind.	2,116,109.96	
	Savings.	1,812,120.64	
	Postal	41,983.47	
	Thrift	27,647.50	
	Thrift Closed	63.14	
	Vacation Club	6.25	$4,254,543.00
Bonds		358,227.54	
Bankers Accept.		499,750.32	
Com'l. paper		70,000.00	
Avail Fed.		10,022.99	
Pledged with City Treas:			
Bankers Accept.		499,750.32	
C/D		250,000.00	
General Motors		50,000.00	
Univ. Credit		20,000.00	
B. R.		296,100.00	
City Warrants		35,900.00	
" Bonds		2,000.00	

200 DEFENDANT'S EXHIBIT 4.

Close of Business
June 13, 1931

Continental		923.52	
C/D "		250,000.00	
Union Trust		294.05	
National City		2,116.02	
Federal		220,181.81	
Fed. Transit		47,727.59	
Chase		7,925.51	
Commerce		868.57	
Cash		295,918.10	825,955.17
Bills Rec.			2,363,601.53
Deposits:			
	Demand Cert.	235,103.60	
	Ind.	2,034,063.45	
	Sav.	1,794,230.01	
	Postal	41,983.47	
	Thrift	27,609.75	
	Thrift Closed	63.14	
	Vacation Club	6.25	$4,147,368.00
Bonds		348,402.54	
Bankers Occept.		499,750.32	
Com'l. paper		70,000.00	
Avail Fed.		10,022.99	
Pledged with City Treas:			
Bankers Accept.		499,750.32	
C/D		250,000.00	
General Motors		50,000.00	
Univ. Credit		20,000.00	
B. R.		296,100.00	
City Warrants		35,900.00	
" Bonds		2,000.00	

201 DEFENDANT'S EXHIBIT 5.

The Manufacturers National Bank and Trust Company
of Rockford, Illinois
Insolvent

Close of Business—June 13, 1931.

Resources	
Loans & Discounts	$2,363,601.53
Bankers Acceptances	499,750.32
C/D acct. Cont'l. Ill. Bank & Trust Co.	250,000.00
Overdrafts	1,029.83
U. S. Bonds to secure circulation	200,000.00
Premium on U. S. bonds	5,883.13
U. S. bonds pledged to secure Postal Savings	42,000.00
U. S. Bonds to Secure trust Dep. State	100,000.00
U. S. Bonds to secure Trust funds	56,160.00
U. S. Bonds to secure State deposits	161,800.00
U. S. Bonds unpledged	2,408.36
Other bonds pledged Continental Bank	150.861.87
Other bonds pledged Sec. Trust Dept.	25,760.00
Other bonds pledged Receivership Dep.	7,776.25
Other bonds pledged City Dep.	34,700.00
Defaulted bonds	3,825.00
Bonds unpledged	167,015.67
Claims	14,621.61
Federal Reserve Bank stock	21,000.00
Banking house	538,000.00
Furniture & Fixtures	54,247.21
Other Real Estate	21,660.01
Federal Reserve Bank	220,181.81
Federal Reserve Bank, Transit	47,727.59
Continental Illinois Bank & Trust Co.	923.52
Union Trust Co. Cleveland	294.05
National City Bank New York	2,116.02
Chase National Bank New York	7,925.51
Merc. Com. Bank & Trust Co., St. Louis	868.57
Second National Bank, Beloit, Wis.	308.27
Cash Items	2,122.719
Clearings	39,546.25
Cash	253,240.06
Coupons for collection	4,515.61
Transit	2,430.78
5% Fund	10,000.00
Cash Short	1,077.19
Total:—	$5,315,378.81

Liabilities	
Capital	500,000.00
Surplus	200,000.00
Undivided profits	49,810.54
Reserves	8,721.30
Due to banks	1,092.22
Cashier's checks	12,111.58
Certified checks	1,523.61
Balance checks	611.65
Dividend checks	393.02
Individual deposits	2,034,063.45
Demand Certificates	235,103.60
Savings Deposits	1,794,230.01
Postal Savings Deposit	41,983.47
Thrift Savings	27,609.75
Thrift Savings Club closed	63.14
Vacation club	6.25
Bills Payable	100,000.00
Rediscounts	100,054.92
Circulation	200,000.00
Loss on bonds not allocated	8,000.00
Total:—	$5,315,378.81

I hereby certify the above to be a correct copy of the Statement of Condition of The Manufacturers National Bank and Trust Company of Rockford, Illinois as of June 13, 1931, as taken from the daily statement register.

M. R. BATY,
Examiner.

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DEFENDANT'S EXHIBIT 6.

The Manufacturers National Bank and Trust Co., Rockford, Illinois.

Sheet No. ..... Name Mechanics Universal Joint Co.

Address

Old Balance	Date		Checks in Detail								
							1931				
	Balance Brought Forward.....					Jan.	8	11,764.94			
	1931								1931		
	Jan.	8	24.70–	15.90–	28.00–				Jan.	8	11,697.24*
11,697.24	Jan.	9	75.00	14.54–		Jan.	9		Jan.	9	11,607.70*
11,607.70	Jan.	10	951.02LS						Jan.	10	10,656.68*
10,656.68	Jan.	12	124.70LS						Jan.	12	10,531.98*
10,531.98	Jan.	13	441.48LS						Jan.	13	10,090.50*
10,090.50	Jan.	16	22.48LS						Jan.	16	10,068.02*
10,068.02	Jan.	17	92.62LS			Jan.	17	19,011.10	Jan.	17	28,986.50*
28,986.50	Jan.	19	59.28–						Jan.	19	28,927.22*
28,927.22	Jan.	19	56.85–			Jan.	19	148.98	Jan.	19	29,019.35*
29,019.35	Jan.	19	148.98–						Jan.	19	28,870.37*
28,870.37	Jan.	20	326.56LS						Jan.	20	28,543.82*
28,543.82		21	12.61–	24.68–	40.00–						
	Jan.	21	.75–						Jan.	21	28,465.78*
28,465.78	Jan.	22	30.19–	.75–					Jan.	22	28,434.84*
28,434.84	Jan.	23	499.81LS						Jan.	23	27,935.03*
27,935.03	Jan.	24	9.31–						Jan.	24	27,925.72*
27,925.72	Jan.	26	10.00–	47.34–	26.88–				Jan.	26	27,841.50*
27,841.50	Jan.	28	25.00–						Jan.	28	27,816.50*
27,816.50	Jan.	28	4.54–	2.39–	12.57–						
	Jan.	28	5.64–	25.00–					Jan.	28	27,766.36*
27,766.36	Jan.	29	10.57–	2.78–	23.73–				Jan.	29	27,729.28*
27,729.28	Jan.	30	20.18–	23.66–					Jan.	30	27,685.44*
27,685.44	Jan.	31	261.81LS						Jan.	31	27,423.63*
27,423.63	Feb.	2	1.73–	2.50–					Feb.	2	27,419.40*
27,419.40	Feb.	3	507.67LS						Feb.	3	26,911.73*
26,911.73	Feb.	4	55.17–						Feb.	4	26,856.56*
26,856.56	Mar.	5	63.45–	15.66–					Mar.	5	26,777.45*
26,777.45	Feb.	6	24.86–	8.98–	3.00–						
	Feb.	6	11.29–	42.25–					Feb.	6	26,687.07
26,687.07						Feb.	6	229.08	Feb.	6	26,916.15*
26,916.15	Feb.	7	10.08–	12.25–	.75–				Feb.	7	26,893.07*
26,893.07	Feb.	9	512.83LS			Feb.	9		Feb.	9	26,380.24*
26,380.24	Feb.	10	459.45LS			Feb.	10	25,000			
						Feb.	10	31,570.63	Feb.	10	82,491.42*
82,491.42	Feb.	11	44,325.57LS	.95–					Feb.	11	38,164.90*
38,164.90	Feb.	13	7.83–	35.00–	.65–				Feb.	13	28,121.42*
38,121.42	Feb.	13	10,119.27–						Feb.	13	28,002.15*
28,002.15	Feb.	14	299.57LS						Feb.	14	27,702.58*
27,702.58	Feb.	16	2.15–	52.12–	40.23–				Feb.	16	27,608.08*
27,608.08	Feb.	17	184.10–						Feb.	17	27,423.98*
27,423.98	Feb.	17	42.00–			Feb.	17	9,122.74	Feb.	17	36,504.72*
36,504.72	Feb.	18	1,838.21LS						Feb.	18	34,666.51*
34,666.51	Feb.	19	2,976.65LS			Feb.	19	7,841.44	Feb.	19	39,531.30*
39,531.30	Feb.	20	9,193.65LS						Feb.	20	30,337.65*
30,337.65	Feb.	21	818.07LS						Feb.	21	29,519.58*
29,519.58	Feb.	24	621.84LS			Feb.	24	76.13	Feb.	24	28,973.87*
28,973.87	Feb.	25	923.82LS						Feb.	25	28,050.05*
28,050.05	Feb.	26	92.17LS						Feb.	26	27,957.88*
27,957.88	Feb.	27	1,276.28LS			Feb.	27	8,853.04	Feb.	27	35,534.64*
35,534.64	Feb.	28	13.79–	7.86–	171.50–						
	Feb.	28	.58–						Feb.	28	35,340.91*

203 **DEFENDANT'S EXHIBIT 6.**

The Manufacturers National Bank and Trust Co., Rockford, Ill.

Sheet No. ..... Name Mechanics Universal Joint Co.

Address

Old Balance	Date						1931			1931		
	Balance Brought Forward.....						Feb.	28	35,340.91			
	1931									1931		
	Feb.	28	11,248.83-							Feb.	28	24,092.08*
24,092.08							Mar.	2	3,779.95	Mar.	2	27,872.03*
27,872.03	Mar.	2	112.62LS							Mar.	2	27,759.41*
27,759.41	Mar.	3	1,828.62LS							Mar.	3	25,930.79*
25,930.79	Mar.	4	6,985.03LS							Mar.	4	18,945.76*
18,945.76	Mar.	5	976.87LS							Mar.	5	17,968.89*
17,968.89	Mar.	6	356.45LS							Mar.	6	17,612.44*
17,612.44	Mar.	7	1,145.82LS							Mar.	7	16,466.62*
16,466.62	Mar.	9	2,450.09LS				Mar.	9	174.98	Mar.	9	14,191.51*
14,191.51	Mar.	10	528.99LS							Mar.	10	13,662.52*
13,662.52	Mar.	11	18.12-	6.00-	5.00-					Mar.	11	13,633.40*
13,633.40	Mar.	12	29.45-	3.75-	31.26-							
	Mar.	12	251.30-							Mar.	12	13,317.64*
13,317.64	Mar.	13	5,786.52LS							Mar.	13	7,531.12*
7,531.12	Mar.	14	15.89-	16.42-	4.83-							
	Mar.	14	6.00-							Mar.	14	7,487.98*
7,487.98	Mar.	14	189.00-							Mar.	14	7,298.98*
7,298.98	Mar.	18	618.46LS				Mar.	18	56,127.76			
							Mar.	18	10,000.00	Mar.	18	72,808.28*
72,808.28	Mar.	19	749.78LS							Mar.	19	72,058.50*
72,058.50	Mar.	19	749.79LS				Mar.	19	749.78	Mar.	19	72,058.49*
72,058.49	Mar.	20	34,912.99LS							Mar.	20	37,145.50*
37,145.50	Mar.	21	14.89-	222.29-	6.00-							
	Mar.	21	156.45-	.75-						Mar.	21	36,745.12*
36,745.12	Mar.	23	303.28LS				Mar.	23	5,671.88	Mar.	23	42,113.72*
42,113.72	Mar.	24	324.43LS				Mar.	24	7,757.78	Mar.	24	49,547.07*
49,547.07	Mar.	25	118.62-							Mar.	25	49,428.45*
49,428.45	Mar.	26	173.50-							Mar.	26	49,254.95*
59,254.95	Mar.	27	2,669.70LS							Mar.	27	46,485.25*
46,485.25	Mar.	28	13,202.25LS							Mar.	28	33,282.00*
33,282.00	Mar.	30	229.41-	2.47-	10.73-					Mar.	30	33,039.39*
33,039.39							Mar.	30	9,243.92	Mar.	30	42,283.31*
42,283.31	Mar.	31	2,210.31LS				Mar.	31	1,608.38	Mar.	31	41,681.38*
41,681.38	Apr.	1	12,500.00-	210.79-	25.00-					Apr.	1	28,870.13*
	Apr.	1	75.56-									
28,870.13	Feb.	2	1,887.42LS							Feb.	2	26,982.71*
26,982.71		3	4,000.26LS							Apr.	3	22,982.45*
22,982.45	Apr.	4	1,313.85LS							Apr.	4	21,668.60*
21,668.60	Apr.	6	276.98				Apr.	6	5,429.99	Apr.	6	26,821.61*
26,821.61	Apr.	7	1,949.81LS							Apr.	7	24,871.80*
24,871.80	Apr.	8	612.33LS				Apr.	8	7,900.88	Apr.	8	32,160.35*
32,160.35	Apr.	9	10.79-	159.02-	38.22-					Apr.	9	31,952.32*
31,952.32	Apr.	9	.90-							Apr.	9	31,951.42*
31,951.42	Apr.	10	118.91LS							Apr.	10	31,832.51*
31,832.51	Apr.	11	627.21LS							Apr.	11	31,205.30*
31,205.30	Apr.	13	500.91LS							Apr.	13	30,704.39*
30,704.39	Apr.	13	29,794.03LS				Apr.	14	13,455.68	Apr.	14	14,366.04*
14,366.04	Apr.	15	453.61LS							Apr.	15	13,912.43*
13,912.43	Apr.	16	289.55-	.80-	56.25-							
	Apr.	16	4,544.30-							Apr.	16	9,021.53*

DEFENDANT'S EXHIBIT 7

Bank Statement. In Account with Rfd. Nat'l Bank for Month of May, 1931

RECORD OF OUTSTANDING CHECKS.

BANK ACCOUNT

Check Number	Amount √	Check Number	Amount √	Day	Description	Deposits √	Checks √	Balance on Hand √
14945	9.60 √			Balance First of Month		———	———	18,218.56
	10,834.71 Book Bal							
	10,844.31 Bank Bal							
				1				
				2				
				3				
				4				
				5				
				6				
				7				
				8				
				9				
				10				
				11				
				12				
				13				
				14				
				15			12,417.68	5,800.88
				16				
				17				
				18				
				19				
				20				
				21				
				22				
				23				
				24				
				25				
				26				
				27		5,033.83		10,834.71
				28				
				29				
				30				
				31				
				Totals				

Checks Outstanding

Bank Balance

Defendant's Exhibit 7.

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DEFENDANT'S EXHIBIT 7

Bank Statement. In Account with Rfd. Nat'l Bank for Month of June, 1931

RECORD OF OUTSTANDING CHECKS

Check Number	Amount √
15380	44.10 √
519	1,451.37 √
517	57.42 √
	1,552.89
	22,809.58 Book Bal
	24,362.47 Bank Bal

Check Number	Amount √

BANK ACCOUNT

Day	Description	Deposits √	Checks √	Balance on Hand √
Balance First of Month		———	———	10,834.71
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12		35,000.00		10,834.71
13				
14				
15				
16		17,536.29	11,882.10	16,488.90
17				
18				
19		19,989.33		36,478.23
20				
21				
22				
23				
24			2,416.23	34,062.00
25				
26				
27			11,252.42	22,809.58
28				
29				
30				
31				
Totals				

Checks Outstanding
Bank Balance

DEFENDANT'S EXHIBIT 8

Bank Statement. In Account with Security Nat'l Bank for Month of May, 1931

RECORD OF OUTSTANDING CHECKS

Check Number	Amount √	Check Number	Amount √
5594	25.00 √		
5610	42.00 √		
16	70.00 √		
24	25.00 √		
15031	42.95 √		
32	5.03 √		
34	5.64 √		
37	290.71 √		
38	349.52 √		
42	11.25 √		
46	5.00 √		
48	109.76 √		
50	524.97 √		
	1,506.83		
	64,126.79	Book Bal	
	65,633.62	Bank Bal	

BANK ACCOUNT

Day	Description	Deposits √	Checks √	Balance on Hand √
Balance First of Month				24,081.14
1			4,323.09	19,758.05
2				
3				
4				
5				
6		7,450.39 √		27,208.44
7				
8			2,678.06	24,530.38
9		30,000.00 √	5,076.54	49,453.84
10				
11		418.77 √		49,872.61
12				
13				
14				
15			16,653.39	33,219.22
16		8,711.99 √		41,931.21
17				
18		25,000.00 √		66,931.21
19		61,989.24 √	50,000.00	78,920.45
20		10,000.00 √		88,920.45
21				
22				
23				
24				
25			10,654.44	78,266.01
26		16.93 √		78,282.94
27			14,528.93	63,754.01
28				
29		146.01 √		63,900.02
30		262.24 √	35.47	64,126.79
31				
Totals				

Checks Outstanding
Bank Balance

Defendant's Exhibit 8.

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DEFENDANT'S EXHIBIT 8

Bank Statement. In Account with Security Nat'l Bank for Month of June, 1931

RECORD OF OUTSTANDING CHECKS

BANK ACCOUNT.

Check Number	Amount √	Check Number	Amount √
5630	65.00		
72	10.00 √		
	75.00		
	85,761.12	Book Bal'	
	85,836.12	Bank Bal	

Day	Description	Deposits √	Checks √	Balance on Hand √
Balance First of Month				64,126.79
1		10,000.00 √	12,500.00	61,626.79
2				
2				
3				
4				
5				
6		1,526.89 √		63,153.68
7				
8				
9				
10		40,689.86	3,809.99	100,033.55
11				
12			49,633.00	50,400.55
13				
14				
15				
16		35,000.00		85,400.55
17				
18				
19				
20		88.07		85,488.62
21				
22				
23				
24	Corr.	272.50		85,761.12
25				
26				
27				
28				
29				
30				
31				
Totals				

Checks Outstanding
Bank Balance

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Statement of Evidence.

DEFENDANT'S EXHIBIT 8.

Bank Statement. In Account with Security Nat'l Bank for Month of May, 1931

RECORD OF OUTSTANDING CHECKS				BANK ACCOUNT				
Check Number	Amount √	Check Number	Amount √	Day	Description	Deposits √	Checks √	Balance on Hand √
5594	25.00			Balance First of Month				
5610	42.00							24,081.14
16	70.00			1			4,323.09	19,758.05
24	25.00			2				
15031	42.95			3				
32	5.03			4				
34	5.64			5				
37	290.71			6		7,450.39		27,208.44
38	349.52			7				
42	11.25			8			2,678.06	24,530.38
46	5.00			9		30,000.00	5,076.54	49,453.84
48	109.76			10				
50	524.97			11		418.77		49,872.61
	1,506.83			12				
	64,126.79	Book Bal		13				
	65,633.62	Bank Bal		14				
				15			16,653.39	33,219.22
				16		8,711.99		41,931.21
				17				
				18		25,000.00		66,931.21
				19		61,989.24	50,000.00	78,920.45
				20		10,000.00		88,920.45
				21				
				22				
				23				
				24				
				25			10,654.44	78,266.01
				26		16.93		78,282.94
				27			14,528.93	63,754.01
				28				
				29		146.01		63,900.02
				30		262.24	35.47	64,126.79
				31				
				Totals				

Checks Outstanding
Bank Balance

Defendant's Exhibit 8.

DEFENDANT'S EXHIBIT 8

Bank Statement. In Account with Security Nat'l Bank for Month of June, 1931

RECORD OF OUTSTANDING CHECKS				BANK ACCOUNT				
Check Number	Amount √	Check Number	Amount √	Day	Description	Deposits √	Checks √	Balance on Hand √
5630	65.00			Balance				
72	10.00			First of Month				64,126.79
	75.00							
	85,761.12	Book Bal		1		10,000.00	12,500.00	61,626.79
	85,836.12	Bank Bal		2				
				3				
				4				
				5				
				6		1,526.89		63,153.68
				7				
				8				
				9				
				10		40,689.86	3,809.99	100,033.55
				11				
				12			49,633.00	50,400.55
				13				
				14				
				15				
				16		35,000.00		85,400.55
				17				
				18				
				19				
				20		88.07		85,488.62
				21				
				22				
				23				
				24	Corr.	272.50		85,761.12
				25				
				26				
				27				
				28				
				29				
				30				
				31				
				Totals				

Checks Outstanding
Bank Balance

DEFENDANT'S EXHIBIT 8

Bank Statement. In Account with Security Nat'l Bank for Month of May, 1931

RECORD OF OUTSTANDING CHECKS

Check Number	Amount √
5594	25.00
5610	42.00
16	70.00
24	25.00
15031	42.95
32	5.03
34	5.64
37	290.71
38	349.52
42	11.25
46	5.00
48	109.76
50	524.97
	1,506.83
	64,126.79 Book Bal
	65,633.62 Bank Bal

Check Number	Amount √

BANK ACCOUNT

Day	Description	Deposits √	Checks √	Balance on Hand √
Balance First of Month				24,081.14
1			4,323.09	19,758.05
2				
3				
4				
5				
6		7,450.39		27,208.44
7				
8			2,678.06	24,530.38
9		30,000.00	5,076.54	49,453.84
10				
11		418.77		49,872.61
12				
13				
14				
15			16,653.39	33,219.22
16		8,711.99		41,931.21
17				
18		25,000.00		66,931.21
19		61,989.24	50,000.00	78,920.45
20		10,000.00		88,920.45
21				
22				
23				
24				
25			10,654.44	78,266.01
26		16.93		78,282.94
27			14,528.93	63,754.01
28				
29		146.01		63,900.02
30		262.24	35.47	64,126.79
31				
Totals				

Checks Outstanding
Bank Balance

Defendant's Exhibit 8.

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DEFENDANT'S EXHIBIT 8

Bank Statement. In Account with Security Nat'l Bank for Month of June, 1931

RECORD OF OUTSTANDING CHECKS				BANK ACCOUNT				
Check Number	Amount √	Check Number	Amount √	Day	Description	Deposits √	Checks √	Balance on Hand √
5630	65.00			Balance First of Month				64,126.79
72	10.00							
	75.00							
	85,761.12	Book Bal		1		10,000.00	12,500.00	61,626.79
	85,836.12	Bank Bal		2				
				3				
				4				
				5				
				6		1,526.89		63,153.68
				7				
				8				
				9				
				10		40,689.86	3,809.99	100,033.55
				11				
				12			49,633.00	50,400.55
				13				
				14				
				15				
				16		35,000.00		85,400.55
				17				
				18				
				19				
				20		88.07		85,488.62
				21				
				22				
				23				
				24	Corr.	272.50		85,761.12
				25				
				26				
				27				
				28				
				29				
				30				
				31				
				Totals				

208 DEFENDANT'S EXHIBIT 9.

Check No. A15194

Mechanics Universal Joint Company
Division of Borg-Warner Corporation
Rockford, Illinois June 15, 1931

To The
Third National Bank
Rockford, Illinois 70-40
Pay to the Order of Mechanics U. J. Co. $6 49 Cts 11 $6.49

MECHANICS UNIVERSAL JOINT COMPANY
E. S. EKSTROM
President
D. W. GUSTAFSON
Secy. Treas.

Checks Outstanding
Bank Balance

Atlas Forgings Company,
1501 South 55th Court,
Cicero, Illinois

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No.	Payee	Amount
15195	American Multigraph Sales Co.	6.00
15196	Amer. Institute of Weights & Measures	25.00
15197	Broadway Laundry Service Co.	1.22
15198	Charles Bruning Co.	13.46
15199	Brown & Sharp Co.	2.38
15200	Jos. Behr and Sons	51.50
15201	Bliss Printing Co.	254.00
15202	Barber-Calman Co.	66.40
15203	Bowen Products Corp.	302.21
15204	D-R-F-Chevrolet Co.	4.75
15205	Colonial Broach Co.	148.00
15206	Continental Desk Co.	6.70
15207	Chilton Class Journal Co.	372.66
15208	Cities Service Oil Co.	32.39
15209	Crucible Steel Co.	214.03
15210	Dwight and M. H. Jackson	16.34
15211	Detroit Gasket and Mfg. Co.	22.51
15212	Felt and Terrant Mfg. Co.	5.25
15213	Fellows Gear Shaper Co.	21.28
15215	Green Bay Barker Machine Works	3.37
15216	Eric J. Gustafson	1.50
15217	Greenlee Bros. Co.	1,541.42

No.	Payee	Amount
15218	Haynes Stellite Co.	51.95
15219	Halcomb Steel Co.	8.33
15220	Ill. Bell Tele. Co.	190.00
15221	Edmund Jackson Co.	5.40
15222	Fred C. Kramer & Co.	23.45
15223	Luebke's Service Station	1.29
15224	Lodge & Shipley Machine Tool Co.	45.00
15225	Leland-Gippert Co.	.62
15226	R. K. LeBond Machine Tool Co.	27.00
15227	LaPointe Machine Tool Co.	50.00
15228	Landish Machine Co.	166.02
15229	Midway Hotel Co.	5.00
15230	Moline Foundry & Machine Co.	26.43
15231	National Twist Drill & Tool Co.	27.77
15232	S. L. O'Connor Co.	2.37
15233	Swords Bros. Co.	916.26
15234	O. K. Tool Co., Inc.	22.99
15235	Otis Elevator Co.	40.00
15236	Postal Telegraph Co.	23.82
15237	Potter and Johnson Machine Co.	16.06
15238	Rockford Consolidated Newspapers, Inc.	15.00
15239	Central Ill. Elec. and Gas Co.	4,857.61
15240	Rockford Gas, Light & Coke Co.	1,667.57
15241	Rockford Printing & Supply Co.	5.36
15242	Rodman Chemical Co.	799.25
15243	Rockford Eagle Furniture Co.	5.00
15244	Rockford Wholesale Grocery Co.	.95
15245	" Northwestern Mallable Co.	10.43
15246	" Power Machinery Co.	11.00
15247	" Drilling Machine Co.	992.60
15248	Society of Automotive Engineers	90.00
15249	E. H. Sargent & Co.	1.37
15250	Skandia Hardware Co.	2.50
210		
15251	Standard Oil Co.	21.15
15252	Siekret and Baum Stationary Co.	2.21
15253	Sundstrand Machine Tool Co.	31.75
15254	Standard Units Part Corp.	27.04
15255	Todd Sales Co.	6.24
15256	United Tire Co.	43.94
15257	Visiting Nurses' Association	17.25
15258	Western Union Tele. Co.	51.57

No.	Payee	Amount
15259	Wilson Bottling Company	2.00
15260	Woodworkers Tool Works	4.24
15261	F. Wittig & Co., Inc.	84.00
15262	C. G. Olson Wood Turning	1.00
15263	Zuck and Eaton	31.40
15264	Swords Elec. Co.	206.90
15265	C. A. S. Engineering Co.	4,854.63

The foregoing list of checks, numbered from 15195 to 15265, excluding 15214, were all dated June 15, 1931, and all bear a sticker, which sticker reads as follows:

"To The Third National Bank
Rockford, Illinois 70-40"

211 DEFENDANT'S EXHIBIT 10.

Deposited With
The Third National Bank
Rockford, Ill.

By Mech Univ Joint Co

6/12/31

All Items are Credited Subject to Payment

Right is reserved and the bank is authorized to forward items for collection or payment direct to the drawee or payor bank, or through any other bank at its discretion, and to receive payment in drafts drawn by the drawee or other banks, and except for negligence, this bank shall not be liable for dishonor of the drafts so received in payment nor for losses thereon.

	Dollars	Cents	Dollars	Cents
Currency				
Gold				
Silver				
Checks	42761	12		

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212 DEFENDANT'S EXHIBIT 11.

Deposited With
~~Security~~ National Bank
RFD.
By Mech Univ Joint Co.
6/12-31

Please List Each Check Separately

	Dollars Cents	Dollars Cents
Currency		
Gold		
Silver		
Checks	35000.00	

Received
Mechanics Universal Joint Co.
Rockford, Ill.
Jul 13 1931

Not Negotiable
Duplicate Deposit Ticket

33
Received by .....

267 And afterwards, to wit, on the Fourth day of December, 1933, being one of the days of the regular October term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge appears the folowing entry, to wit:

268 IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption) * *

The Court, having considered the evidence introduced by all parties in interest and having heard arguments of counsel, makes the following

FINDINGS OF FACT.

(1) Plaintiff and all defendants are residents of the Northern District of Illinois, Western Division.

(2) The grounds on which the Court's jurisdiction de-

pends are that the Manufacturers National Bank and Trust Company was a national banking corporation, and was insolvent at the institution of this suit, and is in process of liquidation through the Comptroller of the Currency of the United States, represented by L. B. Achor, Receiver.

(3) The Manufacturers National Bank and Trust Company of Rockford, Illinois, was a national banking corporation, and for many years prior to June 15, 1931, continuously conducted a general banking business in the City of Rockford, Illinois, until the close of business at one thirty o'clock P. M. on Saturday, June 13, 1931, when it never thereafter opened its doors to conduct a banking business.

269 (4) On June 16, 1931, The Comptroller of the Currency of the United States executed and delivered his certificate to the effect that said Manufacturers National Bank and Trust Company was then and there insolvent, and appointed L. B. Achor receiver of said bank.

(5) The Mechanics Universal Joint Company is a corporation duly organized under the laws of the State of Illinois; Eric S. Ekstrom, one of the defendants, was, from June 1, 1931, to June 16, 1931, and before and subsequent to that date, president of the Mechanics Universal Joint Company and active manager of its business and spent all of his business time in connection therewith.

(6) Eric S. Ekstrom was on June 12, 1931 and for two years prior thereto had been, a director of the Manufacturers National Bank and Trust Company, and was acting as such on June 12, 1931, at the time of an informal directors' meeting in said bank held from approximately eleven o'clock A. M. to twelve o'clock noon of said day, and was a director of said bank and acting as such at all meetings of said bank attended by him on June 12, 13 and 14, 1931, but that said Eric S. Ekstrom was not an employee or active officer of said bank, and spent no time and performed no duties at said bank or in connection with its business other than in the capacity of a director. On June 12, 1931 he was, and for more than one year prior thereto, had been a member of the loan committee, a committee of the board of directors.

(7) During the period of two months prior to the closing of the Manufacturers National Bank and Trust Company on June 16, 1931, the defendant, Mechanics Universal Joint Company had deposited in the Manufacturers National Bank and

Trust Company to the credit of its checking account the following amounts opposite the dates as follows:

	May 6, 1931	$ 167.19
	May 9, 1931	28,021.33
	May 15, 1931	24,911.68
	May 18, 1931	25,000.00
	May 23, 1931	534.35
	May 25, 1931	4,163.00
	May 28, 1931	2,928.61
270	May 29, 1931	10,149.61
	May 30, 1931	284.44
	June 1, 1931	10,095.28
	June 6, 1931	44,617.21
	Total	$150,872.70

(8) The balance of the checking account of the Mechanics Universal Joint Company in the Manufacturers National Bank and Trust Company on June 12, 1931 was $65,224.30. The Mechanics Universal Joint Company on June 12, 1931 also had a savings account in the Manufacturers National Bank and Trust Company in the sum of $10,000.00.

(9) On June 12, 1931, and at the time the Manufacturers National Bank and Trust Company closed its doors, Eric S. Ekstrom personally had on deposit in the Manufacturers National Bank and Trust Company the sum of $1,413.88 in a checking account and the sum of $736.89 in a savings account.

(10) The Manufacturers National Bank and Trust Company, on June 12, 1931, and for sometime prior thereto, was and had been on a special list of the Comptroller of the Currency to be examined every ninety days or oftener, which fact was well known to the defendant, Eric S. Ekstrom.

(11) On June 12, 1931, at about eleven o'clock A. M. a meeting of the Board of Directors of the Manufacturers National Bank and Trust Company, called by the president at the request of R. M. Baty, a National Bank Examiner was held at the bank, at which the defendant, Eric S. Ekstrom was present and participated in the proceedings. At said meeting of June 12, 1931, Ekstrom learned from the National Bank Examiner, Baty, that the Security National Bank, another National Banking Association of Rockford, had been drained of its deposits and was unable to continue its business and that there had been a tentative contract entered into by the Security National Bank and the Swedish-Amer-

ican National Bank, still another National Banking Association of Rockford, by which the latter bank might take
271 over the former; that said agreement was subject to the final appraisal by the Swedish-American Bank of the assets of the Security National Bank; that the consummation of the contract was subject to the appraisal; that if the Swedish-American National Bank took over the Security National Bank it would happen Monday morning, June 15, 1931. He learned that it was the opinion of said National Bank Examiner and of the Chief Examiner of the District, that the cash position of the Manufacturers National Bank was extremely low, and that it was the opinion of said Examiner that whether or not there was a take over of the Security Bank there would be a run on the other banks on Monday; that it was the opinion of the said Examiner that the cash position of the Manufacturers Bank was so low that it could not stand a run of one business day.

(12) At the meeting of June 12, 1931 Bank Examiner Baty stated to the Directors in the presence of the defendant, Eric S. Ekstrom, that in view of the continued drain of deposits which the Manufacturers Bank had and were still having, it would be for the best interest of the bank's situation for said bank to try and arrange some place to take their deposit liability under cover. At said meeting the Directors of said bank gave National Bank Examiner, Baty, a letter which authorized said bank Examiner to talk over the affairs of the Manufacturers Bank with a view to having said bank taken over by some other bank in Rockford. Ekstrom was present and consented that Baty should negotiate with some other Rockford bank with a view to a merger.

(13) At the time of the board meeting on June 12, 1931, Ekstrom had knowledge that the Comptroller claimed that the condition of said bank was as shown by a report of an examination of said bank December 1, 1930. Eric S. Ekstrom had examined said report. Accompanying said report there was a letter of the Comptroller of the Currency addressed to said bank, which letter was dated January 8, 1931, both
272 which said report and letter had been read by Eric S. Ekstrom on or about January 13, 1931. Said report and letter showed that, in the opinion of the Comptroller the bank had loans and discounts which were slow assets in the total sum of $1,014,167.09; that the official estimated that there were doubtful loans and discounts to the extent of $228,173.34, and that said official considered there were losses of $138,-

789.96 since the last examination, Exhibit No. 22 being the report on file in the bank.

(14) On said June 12, 1931 Eric S. Ekstrom knew the Comptroller had requested the bank to send him a letter every thirty days, indicating the condition of the bank.

(15) The bank was examined on or about April 27, 1931. A copy of the report of this examination was sent to the bank on or about May 28, 1931, and received about that time. With it there was a letter from the Comptroller dated May 28, 1931. Eric S. Ekstrom saw and examined both said report and said letter. In said report to which the letter of the Comptroller referred, it was shown that the office of the Comptroller claimed there was slow assets in the bank in the sum of $1,145,201.15; that there were total doubtful assets in the bank of $430,821.34; that there had been losses in the last three months in the sum of $19,795.50. It appeared from the report that the Directors of the Bank had liabilities to the bank, direct and indirect, in the sum of $559,620.86.

The letter of the Comptroller dated May 28, 1931 which Eric S. Ekstrom had read, contained the following:

"While it is believed you are cognizant of the extremely unsatisfactory condition of the assets and are trying to work the bank out of its present dangerous situation, conditions are such that little or no progress can be made and the
273 bank is faced with potential losses that threaten its solvency. If you and the active management can be more vigorous in your efforts to liquidate or adjust with adequate security the criticised assets, it is urged that you do so, as only through a successful liquidating and securing program will the desired results be obtained. In connection with the obligation of the Winnebago Securities Corporation, $297,919.96, representing the balance due on the purchase price of $397,919.96 of losses and doubtful assets, $100,000 having been paid in cash, it is observed that $150,000 thereof is classed doubtful. Even though the shareholders contributed $100,000 to capitalize the company and to make the initial cash payment, the mere changing of the form of losses and doubtful assets to notes of the company with no intention of liquidating them except through salvage from the eliminated assets, which the examiner states will not be very large, is not a satisfactory manner in which to rehabilitate the bank and if the notes of the company are not paid promptly when due it will be necessary for the examiner to estimate losses

on the entire obligation, which would have to be charged off or provided for through an assessment against the stock.

"It is observed that losses of $19,795.50 are to be charged off or sold to the securities company prior to June 15. In view of the classification of the company's present obligation, it is in no condition to purchase any further worthless assets and the losses should be promptly charged off against the profits of the bank. Any available cash in possession of the Winnebago Securities Company should be used to liquidate its present indebtedness to the bank.

"Please also note the heavy borrowings of certain of the directors and their concerns, approximately 31% of the total loans and discounts, and to the examiner's statement that some of their lines are the weakest in the bank and heavy losses appear inevitable. This is a condition which should not exist and in fairness to the bank all criticised lines 274 of directors and their concerns should be given immediate attention with a view to collection, substantial reductions or placing in such condition that they are not subject to criticism. Definite results in this regard will be expected."

(16) At the board meeting of June 12, 1931, a committee was appointed by the Directors of the bank to act for the bank in all matters relating to taking over the affairs of the bank by any other bank.

(17) The defendant, Eric S. Ekstrom, left the Directors' Meeting of June 12, 1931 at about the hour of noon. Shortly thereafter he executed as President of the defendant corporation, a check drawn by the defendant corporation on its account at the Manufacturers National Bank, payable to the Third National Bank for the sum of $42,761.12, and caused said check to be sent by mail late in the afternoon of June 12, 1931 to the Third National Bank, Rockford, Illinois. Accompanying the check there was sent to the Third National Bank a deposit slip directing the deposit of said sum in the general account of the defendant corporation at said Third National Bank.

The defendant corporation had never before transferred money from its checking account in the Manufacturers Bank to its general checking account in the Third National Bank.

(18) Said check was received by the Third National Bank on the morning of Saturday, June 13, 1931, and was included in the clearings of said day, and was paid by the Manufacturers Bank of the morning of said day, which was the last day said bank was open for business. By said check the sum

of $42,761.12 was transferred from the general checking account of the defendant corporation in the Manufacturers National Bank to the general checking account of said corporation in the Third National Bank, Rockford, Illinois.

275 (19) On June 12, 1931 after Eric S. Ekstrom left the meeting of the Directors about noon, he also signed a check, at about the same time he signed the foregoing check, for and on behalf of the defendant corporation drawn by said corporation against its general checking account in the Security National Bank, Rockford, Illinois, which said check was in the sum of $35,000.00. Said check was mailed to the Rockford National Bank.

(20) On Saturday night, June 13, 1931, a Committee from the Third National Bank met the committee from the Manufacturers National Bank, and the two committees spent all night examining the assets of the Manufacturers National Bank. This was known to the defendant, Eric S. Ekstrom. He was present during part of the time. Defendant, Eric S. Ekstrom, knew the two companies were valuing the assets and at the conclusion of their work he learned that it would take $750,000.00 in cash to secure a take over by the Third National Bank. He knew that the capital and surplus of the bank and the undivided profits and reserve account was substantially $750,000.00.

(21) On Sunday, June 14, 1931, a resolution was passed by the Board of Directors of the Manufacturers Bank placing the affairs of said bank in the hands of the Comptroller of the Currency.

(22) On Sunday, June 14, 1931 said bank was in fact insolvent and there had been no appreciable change in its condition from June 12, 1931.

(23) During the whole period from June 6, 1931 to June 13, 1931, both days included, said Manufacturers National Bank and Trust Company remained open during each banking day, and on each of said days transacted its usual and ordinary banking business, accepting such deposits as were tendered to it, and on each and every of said days

276 paid all and every demands which were made upon it; that it honored every check drawn upon it by its respective depositors which was presented to it during said days, and paid all checks drawn upon it by its respective depositors which were presented through clearings with other banks on said days, and during said period was able to and did meet all its obligations as they matured.

(24) The Court finds that the payment by the Manufacturers National Bank and Trust Company, of Rockford, Illinois, of the sum of Forty-two Thousand Seven Hundred Sixty-one Dollars and Twelve Cents ($42,761.12), upon check of the defendant, Mechanics Universal Joint Company against its checking account in said bank, and the transfer of said sum to the account of said Mechanics Universal Joint Company, in the Third National Bank of Rockford on June 13, 1931 was not after the commission of an act of insolvency by the Manufacturers National Bank and Trust Company of Rockford, Illinois; that prior to said payment and transfer; the said Manufacturers National Bank and Trust Company of Rockford, Illinois, had committed no act of insolvency.

Upon the above and foregoing findings of fact the court states the following

CONCLUSIONS OF LAW.

(1) The equities are with the plaintiff on the original bill.

(2) The counter claim is without equity and should be dismissed.

(3) The plaintiff is entitled to a decree as prayed for in the bill.

(4) In view of the knowledge possessed by the defendant, Eric S. Ekstrom, which he had acquired because of his confidential connection with the Manufacturers National
277 Bank, when he drew the check of the defendant corporation for $42,761.12, it would be inequitable to allow the defendant corporation to obtain the advantage which it would thereby obtain over other depositors by virtue of the knowledge which its President had acquired as aforesaid.

(5) It is the law that by virtue of the facts above mentioned the defendant, Eric S. Ekstrom, in causing said check to be drawn and paid, said Eric S. Ekstrom being a Director of the Manufacturers National Bank and Trust Company and occupying a confidential relation toward it when he drew said check for $42,761.12, and thereby caused a transfer of funds belonging to the defendant corporation from the Manufacturers Bank to the Third National Bank, then and there intended to prefer the defendant corporation over the other creditors of said bank and intended to prevent the assets of said bank from being distributed ratably, and that his act in so doing was in violation of Section 5242 of the Revised Stat-

utes of the United States, and was an act done in contemplation of insolvency of said Manufacturers Bank.

(6) In a court of equity when the defendant, Eric S. Ekstrom, on behalf of the defendant corporation signed said check and thereby caused a withdrawal of said funds he acted for said corporation, and said corporation was chargeable with what knowledge the defendant Ekstrom then possessed.

(7) Eric S. Skstrom, having personally signed said check and thereby caused a withdrawal of said funds, and said act being for the benefit of the defendant corporation, both said defendant corporation and said Eric S. Ekstrom became liable in a court of equity to return to the Receiver of said Bank, the funds so withdrawn.

(8) The directors of the bank knew its condition to be as found above and placed its officers in position to pay the check in question, drawn by one possessing knowledge of
278 the bank's condition which he acquired because he held a confidential position in the bank and thereby learned facts not known to depositors generally. The payment of the check in fact created a preference and it must be held in law the parties intended the result of their acts.

(9) The funds of the Mechanics Universal Joint Company were not transferred from its checking account in the Manufacturers National Bank and Trust Company in the usual and ordinary course of business.

(10) The Mechanics Universal Joint Company, through its president, Eric S. Ekstrom, who was also a director of the Manufacturers National Bank and Trust Company, knew at the time the several deposits were made by it in the Manufacturers National Bank and Trust Company, that the Manufacturers National Bank and Trust Company was in a precarious and embarrassing financial condition and hence the depositor was not an innocent depositor and no fraud was practised upon such depositor. The counter claim cannot be sustained.

Dated this 4th day of December, A. D. 1933.

CHARLES E. WOODWARD,
Judge.

264 And afterwards, to wit, on the Fourteenth day of July, 1934, being one of the days of the regular April term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge, appears the following entry, to wit:

265 IN THE UNITED STATES DISTRICT COURT. Entered J 14, 1934

* * (Caption) * *

DECREE.

The above entitled cause further came before the court for final decree on this 14th day of July 1934. It appears to the court that heretofore findings of fact and conclusions of law have been signed by the court and have been filed in said cause.

It further appears to the court that four dividends have been ordered and have been paid on general claims, by the Receiver, and that the amounts to which the defendants would be entitled on the sum of $42,761.12 if said last mentioned sum had been allowed as a claim against the said bank and the dates when the same would have been payable are as follows: December 3, 1931, $10,690.28. March 16, 1932, $4,276.11. August 11, 1932, $4,703.72. April 11, 1934, $2,138.06.

The court further finds that giving the defendants credit for the said sums to which the claim would have been entitled as dividends and figuring interest on the respective sums remaining due from time to time from the date of the closing of said bank to the present time at the rate of five percent per annum, and giving credit on the respective dates for the amount of dividends to which the defendants would have been entitled, there is due as interest, the sum of $4,263.50, and that deducting from the principal amount of $42,761.12, the amount of dividends properly applicable thereto, the balance of principal to this date is $20,952.95. A balance of principal and interest in the sum of $25,216.45.

It Is Ordered by the Court as Follows:

1. That A. B. Culhane, Receiver of The Manufactur-
266 ers National Bank and Trust Company, of Rockford, Illinois, successor to L. B. Achor, former Receiver, have and recover of and from the defendants, Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom, the sum of $25,216.45, together with interest thereon from this date at the rate of five percent per annum.

2. That said defendants Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom are each hereby ordered and directed by the court within twenty days of this date, to return to the possession of A. B. Culhane, Receiver

f The Manufacturers National Bank and Trust Company of ockford, Illinois, the said sum of $25,216.45, and interest rom this date at the rate of five percent per annum, until his order has been fully complied with.

3. That in addition to any other mode authorized in a court of equity for enforcing this judgment and order, that execution may issue.

4. That the defendants pay the costs of this proceeding to be taxed by the Clerk of this Court.

5. That the execution of this decree be stayed until August 20, 1934.

CHARLES E. WOODWARD,
Judge, United States District Court.

July 14, 1934.

20. 279 And afterwards, to wit, on the Twentieth day of August, 1934, being one of the days of the regular April term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge, appears the following entry, to-wit:

280 IN THE UNITED STATES DISTRICT COURT.

* * (Caption) * *

The above named defendants, each conceiving himself aggrieved by the decree made and entered on the fourteenth day of July, A. D. 1934, in the above entitled cause, does each hereby appeal from said order and decree to the United States Circuit Court of Appeals for the Seventh Circuit, for the reasons specified in the assignments of error which is filed herewith, and each prays that this appeal may be allowed; that an order allowing a joint appeal may be entered herein and that a transcript of the record, proceedings and papers upon which said appeal was made, duly authenticated, may be sent to the United States Circuit Court of Appeal for the Seventh Circuit; that the court will fix the amount of the appeal bond to be filed by defendants and prescribe the time within which the same may be filed, and may stay execution herein until the expiration of the time for filing said appeal bond, or
281 any extension thereof, and order that upon the filing of said appeal bond a supersedeas issue; that the court may fix the time within which defendants may submit and file a

statement of the evidence, in compliance with Equity Rule 75b.

Respectfully
S. R. KENWORTHY,
Attorney for Mechanics Universal Joint Company.
SHELBY L. LARGE,
Attorney for Eric S. Ekstrom.

282 And on, to wit, the Twentieth day of August, 1934, came the Mechanics Universal Joint Company by its attorneys and filed in the Clerk's office of said Court at Freeport a certain ASSIGNMENTS OF ERROR in words and figures following, to wit:

283 IN THE UNITED STATES DISTRICT COURT.
* * (Caption) * *

And now, on the twentieth day of August, A. D. 1934, came the said defendant Mechanics Universal Joint Company, by Shelby L. Large and S. R. Kenworthy, its solicitors; and also came the defendant Eric S. Ekstrom, by Shelby L. Large, his solicitor, and each severally say that the decree in said cause is erroneous and against the just rights of said defendants, and each of them, for the following reasons:

First: Because, as appears from the record in this cause, complainant was not entitled to the decree granted in said cause.

Second. Because, as appears from the record in this cause, a decree should have been entered herein in favor of the defendants on the bill of complaint herein and in favor of defendant Mechanics Universal Joint Company, on its counterclaim herein.

Third: Because, as appears from the record, the statute upon which the bill of complaint was predicated has not been violated by the defendants, or either of them.

284 Fourth: The Court did not find as a fact that on June 12, 1931, at the time the check in question for $42,761.12 was drawn, or on June 13, 1931, when the same was paid by said Manufacturers National Bank and Trust Company of Rockford that said bank was either insolvent or that insolvency was contemplated on either of said dates, nor that said check was paid in contemplation of insolvency.

Finding of fact, Nos. 13, 14, and 15, were erroneous and

were based on incompetent evidence admitted by the Court and objected to by defendants.

The first paragraph of finding of fact No. 17 is erroneous and there is no proof in the record upon which the Court could base said finding and said finding is squarely contradicted by all of the evidence in the record; and there is no proof in the record of any kind or character justifying the finding of the court as contained in the second paragraph of finding No. 17.

Finding of fact No. 18 by the Court, in so far as the Court finds that "said check was received by the Third National Bank on the morning of Saturday, June 13, 1931" is not supported by any evidence in the record and is erroneous.

Finding of fact No. 19 by the Court is erroneous and there is no proof in the record to support the same.

Finding of fact No. 22 by the Court is erroneous and
285 there is no evidence in the record to support the same.

Fifth: Because, as appears from the record, the court erred in finding that the withdrawal by the Mechanics Universal Joint Company of the sum of Forty-two Thousand Seven Hundred Sixty-one Dollars and Twelve Cents ($42,761.12) on the thirteenth day of June, A. D. 1931, was prohibited by the statute upon which said complaint was predicated.

Sixth: Because, as appears from the record herein the Court erred in admitting incompetent evidence produced by plaintiff and objected to by defendants, and in overruling said objections of defendants, and particularly:

(a) The court erroneously admitted Plaintiff's Exhibit 22, being a copy of the bank examiner's report which was forwarded to the bank by the Comptroller of the Currency and covers an examination of the bank up to December 1, 1930.

(b) The Court erroneously admitted Exhibit 23, being a copy of letter addressed by the Bank to the Comptroller of the Currency, under date of February 24, 1931.

(c) The Court erroneously admitted Exhibit 24, being copy of a letter from the Comptroller accompanying the report to the examination of the bank made about April 27, 1931. The letter is dated May 29, 1931 and consists of two pages.

(d) The Court erroneously admitted Exhibit 25, namely, copy of the bank examiner's report sent to the Bank by the Comptroller about May 29, 1931.

286 Seventh: Because, as appears from the record herein, the judgment and decree of the court is against the law.

Eighth: Because, as appears from the record herein, the judgment and decree of the court is contrary to the evidence.

Ninth: Because, as appears from the record herein, the judgment and decree of the court is contrary to the law and the evidence.

Tenth: Because, as appears from the record herein, the court erred in its findings of fact, and in each and every thereof, and in each and every finding of fact so found, ignored the evidence herein to the contrary thereof.

Eleventh: Because, as appears from the record herein, even if the facts be as found by the court in its findings, yet the court erred in rendering a decree in favor of plaintiff and against defendants herein based on such findings.

Twelfth: Because, as appears from the record herein, even if the facts be as found by the court in its findings, yet the decree should have dismissed said bill for want of equity and should have decreed the plaintiff pay to defendant Mechanics Universal Joint Company the sum of $20,034.12 Dollars, together with legal interest, in pursuance of said defendant's counterclaim.

Thirteenth: Because, as appears from the record herein, the court erred in decreeing the plaintiff the sum of Four Thousand Two Hundred Sixty-three Dollars and Fifty Cents ($4,263.50) as interest and in decreeing that defendants pay the same.

287 Fourteenth: Because, as appears from the record the statute upon which plaintiff's cause of action is predicated, does not contemplate a decree for interest be entered.

Fifteenth: Because, as appears from the record the plaintiff's claim is predicated upon a statute, namely, Section 91 of the National Banking Act (R. S. 5242); that the record affirmatively shows that the defendant Mechanics Universal Joint Company did not commit and act prohibited by said statute; nor did the defendant Eric S. Ekstrom obtain any advantage prohibited by said statute.

Sixteenth: The court erred in awarding costs in favor of the plaintiff.

Seventeenth: The decree is contrary to law.

Eighteenth: The decree is contrary to the evidence.

Nineteenth: The decree is contrary to equity.

By reason whereof the defendants pray that the judgment aforesaid may be reversed, etc.

Respectfully

S. R. KENWORTHY,
SHELBY L. LARGE,
Attorneys for Mechanics Universal Joint Company.
SHELBY L. LARGE,
Attorney for Eric S. Ekstrom.

ed Aug. 1934.

288 And afterwards, to wit, on the Twentieth day of August, 1934, being one of the days of the regular April term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge, appears the following entry, to wit:

289 IN THE UNITED STATES DISTRICT COURT.

* * (Caption) * *

This cause came on further to be heard on the twentieth day of August, A. D. 1934, on the joint petition of Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom, joint defendants in said cause, praying an appeal from the decree entered herein on the fourteenth day of July, A. D. 1934, and that both of said parties be permitted to join in said appeal, and that in connection with said petition, said petitioners filed herein their joint assignments of error, which said petition was argued by counsel and on consideration thereof

It Is Ordered that the Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom, be, and they are hereby granted and allowed a joint appeal from the final judgment and decree entered herein in the above entitled cause on the fourteenth day of July, A. D. 1934, as prayed for; that the said petition and assignments of error be, and the same

290 are hereby filed and petition for appeal be, and the same is hereby allowed, to be reviewed in the United States Circuit Court of Appeals of the Seventh Circuit; that said petitioners shall file an appeal bond in the penal sum of Thirty Thousand Dollars, with 30 days hereof, with sureties to be approved by the Court, conditioned in the usual form, and that execution be stayed until the time for filing such bond, or any extension thereof, may expire, and that said bond, if filed within the time herein fixed, or and future extension thereof, shall operate as a supersedeas; that petitioners shall lodge in the Clerk's office of this court, within 30 days from this date, together with proof for acknowledgment of the plaintiff, or his solicitor, of such lodgment, a statement of evidence in compliance with Equity Rule 75, and that the same, when approved by the court, be filed in the Clerk's office and shall become a part of the record for the purpose of said appeal.

Dated this twentieth day of August, A. D. 1934.

CHARLES E. WOODWARD,
Judge.

291 And on, to wit, the Twenty-eighth day of August, 1934, come Mechanics Universal Joint Co. & Eric S. Ekstrom as principal and Indemnity Insurance Company of N. America as surety, and filed in the Clerk's Office of said Court, in said entitled cause, a certain Bond on Appeal in words and figures following, to wit: Filed Au 1934.

292 Know All Men by These Presents, that we, Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom, as principals, and Indemnity Insurance Company of North America, as sureties, are held and firmly bound unto A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company, of Rockford, Illinois, successor to L. B. Achor, former receiver, in the penal sum of Thirty Thousand & No.....Dollars, to be paid the said A. B. Culhane, his certain attorneys, successors or assigns: To which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally by these presents.

Sealed with our seals and dated this 28th day of August, in the year of our Lord one thousand nine hundred thirty-four.

Whereas, lately in the District Court of the United States for the Northern District of Illinois, Western Division, in a suit pending in said court, between L. B. Achor, Receiver of the Manufacturers National Bank and Trust Company, of Rockford, Illinois, as plaintiff, and said Mechanics Universal Joint Company and Eric S. Ekstrom, defendants, a decree was rendered against said Mechanics Universal Joint Company and said Eric S. Ekstrom, and the said Mechanics Universal Joint Company and Eric S. Ekstrom having obtained an appeal and filed a copy thereof in the aforesaid court, and a citation directed to the said A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company, of Rockford, Illinois, successor to L. B. Achor, former receiver, and admonishing him to be and appear at a session of the

293 United States Circuit Court of Appeals for the Seventh Circuit, to be holden at the City of Chicago, in said Circuit on the ..... day of ....., next.

Now, the condition of the above obligation is such that if said Mechanics Universal Joint Company and Eric S. Ekstrom shall prosecute their appeal with effect, and answer all damages and costs if they fail to make their plea good, then

the above obligation to be void; else to remain in full force and virtue.

MECHANICS UNIVERSAL JOINT CO.
By E. S. EJSTROM (Seal)
Its President.
(Seal) Eric S. Ekstrom (Seal)

Attest
W. A. GUSTAFSON,
Its assistant secretary.

INDEMNITY INSURANCE COMPANY OF NORTH AMERICA. (Seal)
By IRA *C.* DARLING,
(Seal) *Agent and Attorney in fact.*

Attest:
EDWARD J. O'DONNELL,
(Seal) *Agent and Attorney in fact.*

Sealed and delivered in presence of:
M. GALLAGHER.

Approved by
CHARLES E. WOODWARD,
United States District Judge.

294 Power of Attorney.
Indemnity Insurance Company
of North America.
Philadelphia.

Know All Men by These Presents: That the Indemnity Insurance Company of North America, a corporation of the State of Pennsylvania, having its principal office in the City of Philadelphia, Pennsylvania, pursuant to the following By-Law, which was adopted by the Board of Directors of the said Company on July 12, 1920, to wit:

"Article XII, Section 1.—The President, or any Vice-President, shall have power and authority to appoint resident Vice-Presidents, resident Assistant Secretaries and Attorneys-in-fact and to authorize them to execute on behalf of the Company and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

does hereby nominate, constitute and appoint William Bartholomay, Jr., Herman Bartholomay, Ira G. Darling, John L. Clarkson, Edward J. O'Donnell and B. F. Corrigan, all of the

City of Chicago, State of Ill., its true and lawful agents and attorneys-in-fact, to make, execute, seal and deliver for and on its behalf, and as its act and deed any and all bonds and undertakings in its business of guaranteeing the fidelity of persons holding places of public or private trust, and in the performance of contracts other than insurance policies, and executing and guaranteeing bonds or other undertakings, required or permitted in all actions or proceedings or by law required or permitted.

All such bonds and undertakings as aforesaid to be signed for the Company by any of the said William Bartholomay, Jr., Herman Bartholomay, Ira C. Darling, John L. Clarkson, Edward J. O'Donnell, or B. F. Corrigan and attested and the Seal of the Company attached thereto by any other one of the said William Bartholomay, Jr., Herman Bartholomay, Ira C. Darling, John L. Clarkson, Edward J. O'Donnell or B. F. Corrigan.

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Philadelphia, State of Pennsylvania, in their own proper person.

In Witness Whereof, the said B. Rush, Jr., Vice-President, as hereunto subscribed his name and affixed the corporate seal of the said Indemnity Insurance Company of North America this 12th day of July, 1934.

INDEMNITY INSURANCE COMPANY OF NORTH AMERICA
By B. RUSH, JR.
Vice-President.

295 State of Pennsylvania } ss.
County of Philadelphia }

On this 12th day of July A. D. 1934, before the subscriber, a Notary Public of the State of Pennsylvania, in and for the County of Philadelphia, duly commissioned and qualified, came B. Rush, Jr., Vice-President of the Indemnity Insurance Company of North America to me personally known to be the individual and officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and, being by me duly sworn, deposeth and saith, that he is the officer of the Company aforesaid, and that the seal

affixed to the preceding instrument is the corporate seal of said company, and the said corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that By-Law, Article XII, Section 1, adopted by the Board of Directors of said Company, referred to in the preceding instrument, is now in force.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal at the City of Philadelphia, the day and year first above written.

SUNIE E. WEIGAND,
Notary Public.

(Seal)

Approved:
CHARLES E. WOODWARD,
Judge.

Indemnity Insurance Company
of North America,
Philadelphia.

I hereby certify that the Power of Attorney to which this is attached, issued to William Bartholomay, Jr., Herman Bartholomay, Ira C. Darling, John L. Clarkson, Edward J. O'Donnell and B. B. Corrigan of Chicago, Ill., is in full force and effect as of the 28th day of August, 1934.

INDEMNITY INSURANCE COMPANY OF
NORTH AMERICA,
By W. WISE,
Assistant Secretary.

296 State of Illinois.

Department of Insurance.

Whereas, Indemnity Insurance Company of North America, of the City of Philadelphia, in the State of Pennsylvania has furnished the Director of Insurance due proof that such Company is possessed of the qualifications specified in the Act of the General Assembly of the State of Illinois, entitled "An Act to enable corporations created for that purpose to transact a surety business, in this State, and to become the surety on bonds required by law," approved June 8, 1897, and "An Act in relation to the taxation of non-resident corporations,

companies and associations for the privilege of doing an insurance business in this State," approved June 28, 1919.

Now, Therefore, I, the undersigned, Director of Insurance of the State of Illinois, by virtue of authority vested in me by law, do hereby certify that said Company has qualified and is authorized to do business under the said Acts for the ensuing year, ending June 30, 1935.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Seal of my office.

Done at the City of Springfield, this 28th day of June, A. D. 1934.

ERNEST PALMER,
Director of Insurance.

(Seal)

47 And on, to wit, the Eighteenth day of September, 1934 came the defendants by their attorneys and filed in the Clerk's office of said Court at Freeport a certain Notice in words and figures following, to wit: Filed Sep 1934.

48 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption) * *

NOTICE.

To Roy F. Hall and C. H. Linscott, Solicitors for the above named plaintiff:

You and each of you are hereby notified that on the 18th day of September, 1934, the defendants lodged in the Clerk's office of the above Court a narrative statement of the evidence in the above entitled cause, and you are further notified that the said defendants will appear before the Honorable Charles E. Woodward, one of the Judges of said Court, in the room then occupied by him as a court-room in the Federal Building in Chicago, Illinois, on the first day of October, A. D. 1934, at ten o'clock A. M., of said date or as soon thereafter as counsel can be heard, and will then ask said Judge to approve said statement, at which time and place you can appear if you so desire and take such action as you desire.

Respectfully,

S. R. KENWORTHY,
Solicitor for Mechanics Universal Joint Company, a corporation.

SHELBY L. LARGE,
Solicitor for Eric S. Ekstrom.

Received copy of said notice this 18th day of Sept., A. D. 1934.

C. H. LINSCOTT,
Solicitors for Plaintiff.

49 And afterwards, to wit, on the 12th day of October, A. D. 1934, being one of the days of the regular October term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge appears the following entry, to wit:

50 IN THE UNITED STATES DISTRICT COURT.

* * (Caption) * *

And now on motion of the defendants herein, Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom, it is hereby ordered that the matter of the settlement of the condensed narrative statement of the evidence be continued and carried over to the October Term of this Court.

Done this 12th day of October, A. D. 1934.

CHARLES E. WOODWARD,
Judge.

15. 51 And on, to wit, the 15th day of October, A. D. 1934 came the Defendants by their attorneys and filed in the Clerk's office of said Court at Freeport a certain PETITION in words and figures following, to wit:

52 IN THE UNITED STATES DISTRICT COURT.

* * (Caption) * *

And now come the defendants herein, Mechanics Universal Joint Company, a corporation, by Samuel R. Kenworthy, its solicitor, and Eric S. Ekstrom, by Shelby L. Large, his solicitor, and move the court for an extension of time of thirty days from the first day of October, 1934, or until the thirtieth day of October, 1934, in which to settle the condensed narrative statement which was lodged with the Clerk of this Court on the eighteenth day of September, 1934, and also move the court for an extension of time of thirty days from the seventeenth day of October, 1934, or until the sixteenth day of

November, A. D. 1934, in which to file the transcript in said cause with the Clerk of the United States Circuit Court of Appeals, and in support of this their said motion show
53 unto the Court the accompanying and annexed affidavit of Samuel R. Kenworthy which is attached hereto and made a part hereof.

Respectfully,
S. R. KENWORTHY,
Solicitor for Mechanics Universal Joint Company.
SHELBY L. LARGE,
Solicitor for Eric S. Ekstrom.

54 IN THE UNITED STATES DISTRICT COURT.
* * (Caption) * *

State of Illinois }
Rock Island County } ss.

SAMUEL R. KENWORTHY, being first duly sworn, on his oath states that he is the solicitor for the defendant Mechanics Universal Joint Company in the above entitled cause and as such has had charge of perfecting the appeal in said above entitled cause.

Affiant further states that there was granted by the Hon. Charles E. Woodward, one of the Judges of this Court, on the eighteenth day of September, 1934, an extension of time in which to file transcript of record with the Clerk of the Circuit Court of Appeals in the above case, extending the time for the filing thereof until October 17, 1934. That thereafter, on the eighteenth day of September, 1934, the defendants
55 lodged with the Clerk of this court a condensed narrative statement of the evidence in the above entitled cause and thereupon on said date served notice on solicitor for the plaintiff in the above entitled cause of such lodgement, and in said notice stated that on the first day of October, 1934, at the courtroom of Judge Charles E. Woodward, in the Federal Building, at Chicago, at the hour of ten o'clock A. M., or as soon thereafter as counsel could be heard, he would ask the said Judge to approve the statement so lodged with said Clerk; that at the time affiant served notice upon the solicitor of said plaintiff he was advised by the solicitor of

said plaintiff that he, said plaintiff's solicitor, might require more time in which to look over said narrative statement than the time mentioned in said notice, and thereupon requested of said affiant that in the event he would need more time that affiant would agree to an extension of time, and affiant advised said solicitor that he would do so; that a few days prior to October 1, 1934, and, as affiant remembers, on the twenty-ninth day of September, 1934, affiant received a telephone communication from his associate, Mr. Shelby L. Large, of Rockford, Illinois, stating that Mr. Roy F. Hall, one of the solicitors for plaintiff, would be unable to be in Chicago before Judge Woodward at ten o'clock A. M. on Monday, October 1, 1934, on account of other business engagements and that Mr. Roy F. Hall had requested of affiant that he meet him at the Great Northern Hotel in Chicago, at three o'clock P. M. on Monday, October 1, 1934, at which time he Hall, was of the opinion that affiant and Hall could get together and agree upon certain modifications of said condensed narrative statement; and that thereupon affiant met said Roy F. Hall at said hotel in Chicago and there-
56 upon said Hall stated that he would be unable because of business engagements to complete his examination of the said condensed narrative statement so lodged with the Clerk as aforesaid, and requested of affiant that he be given a few days in which to look over said condensed narrative statement, and thereupon affiant consented to said extension of time; that affiant heard nothing more from said Roy F. Hall until the eighth day of October, 1934, when he received, by express, from said Roy F. Hall, said narrative statement, together with numerous suggestions for the modification of said statement, and with certain additions thereto. That thereupon, on said eighth day of October, 1934, affiant immediately proceeded to the office of said Roy F. Hall with said narrative statement and said suggestions of amendments thereto so prepared by said Hall and requested of said Hall that affiant and said Hall go into conference to see if said narrative statement could be settled by agreement; that said Hall at said time was engaged in the preparation of a brief in an Appellate Court case, as he so stated, and was pressed for time and requested of affiant that he be given a further extension of time and suggested to affiant that affiant make application to the Hon. Charles E. Woodward, on Tuesday, October 16, at Freeport, Illinois, for an extension of time in which to permit of affiant and said Roy F. Hall attempting

to settle said narrative statement by agreement, said Hall at said time stating that his engagements were such that it would be inconvenient for him to confer with affiant prior to October 16, 1934, said Hall at said time stating to affiant that he would appear before said Hon. Charles E. Woodward,
57 at Freeport, on the sixteenth day of October, 1934 without further notice; that affiant thereafter, on the ninth day of October, 1934, deposited in the United States mail, at Moline, Illinois, a letter addressed to the said Roy F. Hall, and with postage fully prepaid, in which letter affiant, among other things stated: "I am notifying you that the Appellant will appear before Judge Woodward at Freeport on Tuesday, October 16, at the opening of court on said day, or as soon thereafter as counsel can be heard, and will then and there apply to the court for an extension of the time for settling of the narrative statement and for filing of the record with the Circuit Court of Appeals on motion at said date to be presented." That thereafter, on Saturday morning, October 13, 1934, affiant was advised that Judge Woodward would not be at Freeport on Tuesday, October 16, 1934, but that he would hear said motion on Monday, October 15, and thereupon affiant notified the said Roy F. Hall by depositing in the United States Mail, at Moline, Illinois, a letter with postage fully prepaid and addressed to the said Roy F. Hall, notifying said Hall that he would call up said motion for hearing before Judge Woodward at the opening of Court on Octoger 15, 1934, instead of October 16, 1934, and also affiant caused said Roy F. Hall to be notified by telephone that said matter would be heard on the fifteenth instead of the sixteenth of October.

Affiant further states that this application is not made for delay, but because the suggestions of said Roy F. Hall as to amendments and additions to said condensed narrative statement are voluminous and are of such a character that there is a possibility that such amendments and additions can be agreed to be counsel rather than to take the time of the court therein.

58 And further affiant sayeth not.

S. R. KENWORTHY.

Subscribed and sworn to before me by the said Samuel R. Kenworthy, this 15th day of October, A. D. 1934.

W. N. TICE,
Deputy Clerk.

(Seal)

ed Oct. 1934.

59 And afterwards, to wit, on the 15th day of October, A. D. 1934, being one of the days of the regular October term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge, appears the following entry, to wit:

60 IN THE UNITED STATES DISTRICT COURT.

* * (Caption) * *

And now comes the defendant, Mechanics Universal Joint Company, a corporation, by Samuel R. Kenworthy, his solicitor, and also comes Eric S. Ekstrom, defendant, by Shelby L. Large, his solicitor, and move the court for an extension of time from the first day of October, 1934, to the thirtieth day of October, 1934 for the setlling of the condensed narrative statement heretofore lodged with the Clerk of this court in this cause on the eighteenth day of September, 1934; and also move the court for an extension of time from the seventeenth day of October, 1934 to the sixteenth day of November, 1934 in which to file with the Clerk of the United States Circuit Court of Appeals of the Seventh Circuit the transcript of record in said cause.

And also appeared the plaintiff herein by Roy F. Hall, his solicitor, and the court having examined said motion and having heard the arguments of counsel thereon, and being now fully advised in the premises, doth order, adjudge and decree that said motion be allowed; and that the time

61 for the settlement of the narrative statement be extended from the first day of October, 1934 to the thirtieth day of October, 1934, at which latter date, unless the solicitors for the respective parties agree to such modifications or additions to said narrative statement as are desired by said plaintiff, or his solicitor, that said narrative statement be set for settlement before the Hon. Charles E. Woodward, at his courtroom in the Federal Building, in the city of Chicago and State of Illinois, at the hour of ten o'clock A. M. on October 30, 1934; and that settlement of said condensed narrative statement will be then up for hearing without further notice to the respective parties to said cause.

It is further ordered, adjudged and decreed that the time for the filing of the transcript on said appeal with the Clerk of the Circuit Court of Appeals be extended to the sixteenth day of November, 1934.

Done in open court this sixteenth day of October, A. D. 1934.

CHARLES E. WOODWARD,
Judge.

62 And afterwards, to wit, on the 30th day of October, A. D. 1934, being one of the days of the regular October term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge appears the following entry, to wit: Entered 30, 19

63 IN THE UNITED STATES DISTRICT COURT.
* * (Caption) * *

And now comes the defendant, Mechanics Universal Joint Company, a corporation, by Samuel R. Kenworthy, its solicitor, and also comes Eric S. Ekstrom, defendant, by Shelby L. Large, his solicitor, and move the court for settlement of the Narrative Statement of Evidence which was lodged with the Clerk of this court on September 18, 1934; and it appearing to the court that due notice of the lodgement of said Narrative Statement of Evidence was served upon the solicitor for plaintiff herein and that on the sixteenth day of October, 1934 an Order was entered herein setting the settlement of said Narrative Statement of Evidence for hearing before the undersigned Judge at his courtroom in the Federal Building in the City of Chicago and State of Illinois, at the hour of ten o'clock A. M. on October 30, 1934; and that settlement of said Condensed Narrative Statement of Evidence be taken up for hearing without further notice to the respective parties to said cause; and it further appearing that objections to said Narrative Statement of Evidence and amendments proposed thereto have been presented to the court by the solicitors
64 for plaintiff and the court having examined said objections and amendments so proposed by the said plaintiff, by and through his solicitor, has in certain respects changed by interlineation said Condensed Narrative Statement so lodged with said Clerk and has now so made the same true, complete and properly prepared.

It Is Therefore Ordered, Adjudged and Decreed that said Narrative Statement as changed and amended by interlineation appearing on the face thereof be, and the same is hereby approved.

And It Is Ordered that the same is true, complete and properly prepared in every respect; and the same shall be filed in the Clerk's office of this court as the full, true, perfect and complete record of the evidence in Condensed Narrative Statement form upon which this cause was heard in this court.

Dated this thirtieth day of October, A. D. 1934.

CHARLES E. WOODWARD,
Judge.

304 And on, to wit, the Seventeenth day of September, 1934 came the defendants by their attorneys and filed in the Clerk's office of said Court at Freeport, a certain MOTION FOR EXTENSION OF TIME AND AFFIDAVIT, in words and figures following, to wit:

305 IN THE DISTRICT COURT OF THE UNITED STATES.

* * (Caption) * *

And now come the defendants (appellants), Mechanics Universal Joint Company, a Corporation, by Samuel R. Kenworthy, its solicitor, and Eric S. Ekstrom, by Shelby L. Large, his solicitor, and move the Court for an extension of time of thirty (30) days (or until October 19, 1934) in which to file the transcript of record in the Circuit Court of Appeals; and also said defendants (appellants) move the Court for leave to file instanter the praecipe for record with the Clerk of this Court and to serve instanter upon the opposing counsel a copy of said praecipe, and that the time be extended in which the plaintiff (appellee) shall file with the Clerk his praecipe for any additional matters for ten (10) days from the granting of this application, if the same should be allowed, and for cause of said motion the defendants (appellants) submit to the court the accompanying and annexed affidavit of Samuel R. Kenworthy.

SAMUEL R. KENWORTHY,
Solicitor for Mechanics Universal Joint Company, a corporation, defendant.
SHELBY L. LARGE
Solicitor for Eric S. Ekstrom, defendant.

306 IN THE DISTRICT COURT OF THE UNITED STATES.
* * (Caption) * *

State of Illinois }
County of Cook. } ss.

SAMUEL R. KENWORTHY, being first duly sworn, on oath states that he is the solicitor for the Mechanics Universal Joint Company, a corporation, one of the defendants in the above entitled cause, and that at the time of the entering of the decree herein, on July 14, 1934, he was selected by both of said defendants (appellants) to prepare said cause for appeal in the United States Circuit Court of Appeals, for the Seventh Circuit.

Affiant further states that he was severely injured in an automobile accident of the 29th day of May, A. D. 1934, and was continuously confined to the hospital and his home until approximately the 1st day of August, 1934; that immediately thereafter he undertook to prepare said cause for appeal and that on the 20th day of August, 1934, he presented to this Court his petition for appeal accompanied by an assignment of errors, and there was issued out of this Court on said day a citation which was duly served upon counsel for plaintiff (appellee); that immediately after the said 20th day of August, 1934, this affiant suffered a relapse and became un-
307 able to attend to his duties at his office, but that he expected said relapse was temporary and that he would be able to complete said appeal; that during the time of said relapse, affiant inadvertently overlooked Rule 13 of the Circuit Court of Appeals which requires the filing of a praecipe for record with the Clerk of this Court within fifteen (15) days from the allowance of said appeal and the service of a copy of said praecipe on the attorneys of record for the plaintiff within ten (10) days from the allowance of said appeal and that said time has gone by in which to file said praecipe.

Affiant further states that he has had exclusive charge of said record for appeal and that Shelby L. Large, of Rockford, Illinois, has depended upon this affiant to get said cause and said appeal perfected.

Affiant further states that he has just completed the narrative statement with the exception of the checking of some exhibits that were introduced in evidence, which exhibits have

not been available to affiant but are all lodged, as affiant believes, in the City of Rockford, Illinois, and affiant expects to have said narrative statement, together with such exhibits as defendants (appellants) deem material, ready for lodgment with the Clerk of this Court and for service of copy upon opposing counsel within a very few days.

Affiant further states that the record is of considerable length that even if the praecipe above mentioned had been filed and served within the time prescribed by the rules of said Circuit Court of Appeals, that there would not have been time for the settlement of said narrative, printing of the record and incorporation of briefs so that said cause could have been submitted at the October session of said Circuit Court of Appeals, and that the delay will not in any manner harm the appellee in said cause; that ample bond has been given to cover any accumulation of interest on
308 said decree, that said decree is a money decree; and that if said decree is affirmed any reasonable delay occasioned thereby will be covered by the appeal bond now on file in this cause.

This affiant further states that this application is not made for delay but that justice may be done.

And further affiant saith not.

SAMUEL R. KENWORTHY

Subscribed and sworn to before me this 13th day of September, A. D. 1934.

META SCHMIDT
Notary Public.

(Seal)

309 And afterwards, to wit, on the Seventeenth day of September, 1934, being one of the days of the regular April term of said Court, in the record of procedeings thereof, in said entitled cause, before the Honorable Charles E. Woodward, District Judge appears the following entry, to wit:

310 IN THE DISTRICT COURT OF THE UNITED STATES. Entered 17, 1

* * (Caption) * *

ORDER.

This cause coming on to be heard on the motion of defendants (appellants) for an extension of time in which to file transcript of record and docketing said appeal with the Circuit Court of Appeals for the Seventh Circuit, and also upon motion that the praecipe for record be filed as of this date and that a copy of said praecipe be served upon counsel for plaintiff (appellee) as of this date, and it appearing to the Court that due notice of said motion was served by mail upon counsel for plaintiff (appellee) on the 13th day of September, A. D. 1934, together with copy of the praecipe for record, copy of said motion and copy of the proposed order thereon, and the Court having examined said motion and accompanying affidavit, and finds that said motion is well taken;

It Is, Therefore, Ordered that said motion of said appellants be and the same is hereby allowed; that the time for the filing of said transcript of record and the docketing of said appeal be extended to and including October 19, 1934; and that the time for the filing of the praecipe of record and service of copy thereof on counsel for appellee be extended to the date of the date of this order.

Dated this 17 day of September, 1934.

CHARLES E. WOODWARD
Judge.

300 And on, to wit, the Eighteenth day of September, 1934 came the Defendants by their attorneys and filed in the Clerk's office of said Court at Freeport a certain Praecipe in words and figures following, to wit: Filed 1934

301 IN THE UNITED STATES DISTRICT COURT.

* * (Caption) * *

PRAECIPE.

To the Clerk of said Court:

You are requested to make a transcript of record to be filed in the United States Circuit Court of Appeals for the Seventh Circuit, pursuant to an appeal allowed in the above entitled

ause, and to include in such transcript of record the follow-
ng and no other papers or exhibits, to wit:
t 1. The Complaint in the above entitled cause.
a 2. The demurrer of the defendant Mechanics Universal
Joint Company to said Complaint.
3. The demurrer of the defendant, Eric S. Ekstrom to said Complaint.
4. The order of the Court overruling said demurrer.
5. The answer of defendant Mechanics Universal Joint Company to said Complaint.
6. The answer of defendant Eric S. Ekstrom to said Complaint.
302 7. The amended counterclaim of defendant Mechanics Universail Joint Company.
8. The answer of plaintiff to said amended counterclaim.
9. The order of court setting said cause for hearing on the proofs then to be made.
10. Notice of lodging of narrative statement of evidence and of time of proposed settlement thereof.
11. The narrative statement of evidence certified to by the clerk.
12. Order approving statement of evidence.
13. The decree of the court entered herein on the 14th day of July, A. D. 1934, and the exceptions of the defendants thereto.
14. The findings of fact and conclusions of law of the Court.
15. The petition for appeal herein filed by defendants on the 20th day of August, A. D. 1934.
16. The assignments of error filed herein by the defendants on the 20th day of August, A. D. 1934.
17. The order of the court allowing said appeal.
18. The appeal bond filed herein.
19. Citation and acknowledgment of service.
20. This praecipe.
21. Motion and affidavit for enlargement of time of filing praecipe and docketing appeal and filing of transcript on appeal.
22. Order allowing extension of time for filing praecipe, docketing appeal, and filing transcript on appeal.
23. Certificate of Clerk.

Respectfully,

SAMUEL R. KENWORTHY
SHELBY M. LARGE
Attorneys for Appellant.

Received copy of the above praecipe this 18th day of September.

C. H. LINSCOTT
Attorney for Appellee.

303 State of Illinois } ss.
County of Cook }

SAMUEL R. KENWORTHY, being first duly sworn, on oath states that he served the foregoing praecipe upon Roy Hall and C. H. Linscott, of Rockford, Illinois, attorneys for the plaintiff-appellee, by mailing to each of said attorneys, at said address, in properly stamped and addressed envelopes, a copy of said praecipe, and depositing said envelopes in the United States mails at Chicago, Illinois, on the 13th day of September, 1934.

SAMUEL R. KENWORTHY

Subscribed and sworn to before me this 13th day of September, 1934.

FRANCES SAVAGE
Notary Public.

311 Northern District of Illinois } ss:
Western Division }

I, Charles M. Bates, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the proceedings had of record made in accordance with Praecipe filed in this Court in the cause entitled L. B. Achor, Receiver of the Manufacturers National Bank and Trust Company, of Rockford, Ill., Plaintiff, *vs.* Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom, Defendants, as the same appear from the original records and files thereof now remaining in my custody and control.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at my office, in the City of Freeport, in said District, this 7th day of November, A. D. 1934.

CHARLES M. BATES
Clerk.

(Seal)

297 And on, to wit, the Twenty-fifth day of August, 1934, came the defendants by their attorneys and filed in the Clerk's office of said Court at Freeport, a certain CITATION in words and figures following, to wit:

298 IN THE UNITED STATES DISTRICT COURT.

* * (Caption) * *

The President of the United States, to the above named complainant, A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company, of Rockford, Illinois, successor to L. B. Achor, former receiver, and all others similarly situated, and to Roy S. Hall, their attorney, Greeting:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Seventh Circuit, to be held in the City of Chicago, in the State of Illinois, within thirty days from the date of this writ, pursuant to an appeal filed in the Clerk's office of the District Court for the Northern District of Illinois, Western Division, wherein L. B. Achor, Receiver of the Manufacturers National Bank and Trust Company, of Rockford, Illinois, complainant, and Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom, are defendants, to show cause, if any there be, why the judgment and decree in such appeal should not be corrected and speedy justice should not be done in that behalf.

299 Witness the Honorable Charles E. Woodward, Judge of the United States District Court for the Northern District of Illinois, Western Division, this twentieth day of August, A. D. 1934.

CHARLES E. WOODWARD,
Judge.

Service of the within citation and receipt of copy thereof admitted this 21st day of August, A. D. 1934.

ROY F. HALL,
C. H. LINSCOTT
Attorney and Solicitor for Appellee.

UNITED STATES CIRCUIT COURT OF APPEALS.

For the Seventh Circuit.

I Frederick G. Campbell, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing Printed pages, numbered from 1 to 218, inclusive, contain a true copy of the printed record, printed under my supervision and filed on the twenty-eighth day of December, 1934, and used and considered at the hearing and on the determination of the following entitled cause:

Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom,

Appellants,

vs.

A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company of Rockford, Illinois, Successor to L. B. Achor, Former Receiver, and all others similarly situated,

Appellee,

No. 5384, October Term, 1935, as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In Testimony Whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 10th day of February, A. D. 1936.

FREDERICK G. CAMPBELL,
Clerk of the United States Circuit Court of Appeals for the Seventh Circuit.

(Seal)

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, begun and held in the United States Court Room in the City of Chicago, in said Seventh Circuit, on the second day of October, 1934, of the October Term, in the year of our Lord one thousand nine hundred and thirty-four, and of our Independence the one hundred and fifty-ninth.

Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom,
Appellants,
5384 *vs.*
A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company of Rockford, Illinois, etc.,
Appellee.

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division.

And afterwards, to-wit: On the twentieth day of April, 1935, there was filed in the office of the Clerk of this court, a Certified copy of Second Amended Counterclaim of Mechanics Universal Joint Company, and Plaintiffs Reply thereto, which said Certified Copy is in the words and figures following, to wit:

IN THE UNITED STATES DISTRICT COURT,

Northern District of Illinois,

Western Division.

A. B. Culhane, Receiver of The Manufacturers National Bank and Trust Company of Rockford, Illinois, successor to L. B. Achor Receiver, etc., *Plaintiff*, *vs.* Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom, *Defendants.*	In Equity, No. 348.

Be It Remembered, That on the 29th day of April, 1932, there was filed by the defendant the Mechanics Universal Joint Company, in the Office of the Clerk of said Court in the above entitled cause, a Second Amended Counterclaim, which is in words and figures as follows, to-wit:

IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Illinois,

Western Division.

L. B. Achor, Receiver of the Manufacturers National Bank and Trust Company, of Rockford, Illinois, *Plaintiff*. *vs.* Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom, *Defendants.*	In Equity, No. 348.

SECOND AMENDED COUNTERCLAIM OF THE MECHANICS UNIVERSAL JOINT COMPANY.

Now Comes the Mechanics Universal Joint Co., a corporation, one of the defendants herein, and pursuant to leave of

court first had and obtained on the 27th day of April, 1932, files this, its second amended counterclaim to the claim of the plaintiff filed in this cause:

Amended Counterclaim.

And the Mechanics Universal Joint Company, a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its principal office and place of business in Rockford, in the State of Illinois, and in this District, by way of a cross-bill herein against the plaintiff above mentioned, and also by way of counterclaim and further answer, avers as follows:

I.

That continuously from the first day of January, 1931, down to and including the thirteenth day of June, 1931, The Manufacturers National Bank & Trust Company, of Rockford, Illinois, was a national banking corporation organized and existing under and by virtue of the laws of the United States, and that during said period it maintained a banking house in the city of Rockford, in the state of Illinois, in said District, and in said banking house conducted a banking business and during the whole of said period kept its bank open continuously during banking days and banking hours and by such action represented to the public that it was a solvent, going, banking institution and a safe place in which to deposit money; that during the whole of said period said bank was, in fact, insolvent.

II.

That the Mechanics Universal Joint Company, a corporation, as aforesaid, relying upon the representations so made by the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, in keeping its Bank open and doing business and relying upon the representation thereby made that said Bank was solvent and then and there believing that said bank was solvent, made deposits of its money and of its checks and bills of exchange in said Bank during said months of May and June, 1931, as follows:

Date	Deposits
May 6th,	$ 167.19
May 9th,	28,021.33
May 15th,	24,911.68
May 18th,	25,000.00
May 23rd,	534,35
May 25th,	4,163.00
May 28th,	2,928.61
May 29th,	10,149.61
May 30th,	284.44
June 1st,	10,095.28
June 6th,	44,617.21

And all of which said deposits were received by the said The Manufacturers National Bank & Trust Company, of Rockford, Illinois, as deposits of cash at said respective times.

III.

That at the time the said respective deposits were received by the said Bank on the respective dates as stated aforesaid, the said Bank was knowingly insolvent and that throughout the period of time said respective deposits were received by said Bank, the active officers in charge of, and daily managing and directing its banking business, were aware of, and knew, its actual condition of insolvency throughout said period of time, and the account of the said Mechanics Universal Joint Company was credited on the books of the said Bank to the credit of the said Mechanics Universal Joint Company, all of which said deposits so solicited and received by said Manufacturers National Bank & Trust Company of Rockford, Illinois, under the circumstances aforesaid, and when said Bank was knowingly insolvent, and when the active officers in charge of, and daily managing and directing its banking business, were aware of, and knew, its actual condition throughout such period, constituted a fraud upon the said Mechanics Universal Joint Company and that by reason of said fraud so perpetrated by the said Manufacturers National Bank & Trust Company of Rockford, Illinois upon the said Mechanics Universal Joint Company, the title to the said sums of money so represented by said deposits never passed to the Manufacturers National Bank & Trust Company of Rockford, Illinois, but in law remained in the

Mechanics Universal Joint Company, and still remains in the said Mechanics Universal Joint Company, and the same was received by the said L. B. Achor, the said Receiver of said Bank, as a trust fund which in equity belongs to, and is the property of, this defendant; and that there remained in the said Manufacturers National Bank & Trust Company of Rockford, Illinois on the 15th day of June, 1931, at which time the said Receiver was appointed and took over the assets of said Bank, credited to the account of this defendant the sum of Twenty thousand, thirty-four dollars and twelve cents ($20,034.12) all of which had been deposited when said Bank was insolvent and when the active and managing officers in charge of, and daily managing and directing its banking business, were aware of, and knew, its actual insolvent condition throughout said period, and which in equity and in good conscience by reason of the circumstances under which said deposits were made, belonged to, and is, the property of this defendant and should be paid to this defendant before the assets of said Bank in the hands of said Receiver are distributed to the general creditors of said Bank.

IV.

That the plaintiff in this cause has alleged in his bill of complaint filed herein that when the said Manufacturers National Bank & Trust Company suspended its banking operations and was closed by the Comptroller of Currency of the United States, said Bank was insolvent; that this defendant states that the said The Manufacturers National Bank & Trust Company was in the same financial condition with reference to its ability to pay its debts and obligations including all of its depositors throughout the entire period from May 6, 1931 to June 15, 1931, the date when it suspended, as it was on the day of its suspension, and that if, as alleged by the plaintiff in said bill of complaint it was insolvent at the time that it suspended, that is, on June 15, 1931, the Mechanics Universal Joint Company avers that it was continuously insolvent throughout the period from and including May 6, 1931 to June 15, 1931, and that throughout that period of time the active and managing officers, to-wit: the President, the Vice-Presidents, the Cashier and Assistant Cashiers, who were in charge of, and daily managing and directing the banking

business of said Bank, were aware of, and knew, its actual insolvent condition throughout said period.

V.

That at the time of the closing of said Bank and at the time the assets therefor were received by the Receiver herein, there was as assets of said Bank so received by said Receiver the sum of, towit: Four hundrd thousand dollars ($400,000.00) in cash, which said cash included the said sum of Twenty thousand, thirty-four dollars and twelve cents ($20,034.12) so deposited by said defendant under the circumstances in this counterclaim hereinabove enumerated.

Wherefore, the Mechanics Universal Joint Company aforesaid, prays that an accounting may be taken in this behalf and that in and by such accounting it be determined what funds and moneys and property of the Mechanics Universal Joint Company were deposited by said Mechanics Universal Joint Company in the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, at the time or times when said Bank was insolvent, and when the active and managing officers in charge of, and daily managing and directing the Banking business of said Bank were aware of, and knew, its actual insolvent condition, and when said Bank was holding itself out to the public as a solvent, going, institution by keeping its banking house open for the conduct of a banking business and for the reception of deposits, and that a decree may be entered herein against the said plaintiff, L. B. Achor, Receiver of The Manufacturers National Bank and Trust Company of Rockford, Illinois, ordering and directing him, out of the funds and assets in his hands as such Receiver, to pay to the Mechanics Universal Joint Company such sum of Twenty thousand, thirty-four dollars and twelve cents ($20,034.12), together with legal interest thereon from the date of deposit of the same, before making distribution of any of the assets of the said The Manufacturers National Bank and Trust Company, of Rockford, Illinois, to the general creditors thereof; and that this defendant may have such other and further relief in the premises as equity may require and to your Honor shall seem meet.

Wherefore, this defendant prays that the said bill of complaint be dismissed as against it, and that it be awarded such

relief as it may be entitled to under and by virtue of said cross bill and counterclaim.

MECHANICS UNIVERSAL JOINT COMPANY,
By R. E. GUSTAFSON,
Asst. Sec.

KENWORTHY, SHALLBERG & HARPER,
per Sh.
Moline, Ill.
LARGE & RENO,
Rockford, Ill.
Attorneys for said Defendant,
Mechanics Universal Joint Co.

Be It Further Remembered, That on the 4th day of May, 1932, the plaintiff filed in the above entitled cause a reply to said Second Amended Counterclaim, which reply is in words and figures, as follows, to-wit:

IN THE DISTRICT COURT OF THE UNITED STATES

Northern District of Illinois,

Western Division.

L. B. Achor, Receiver of The Manufacturers National Bank and Trust Company of Rockford, Illinois, *Plaintiff,* *vs.* Mechanics Universal Joint Company, a Corporation, and Eric S. Ekstrom.	In Equity, No. 348.

REPLY OF PLAINTIFF TO SECOND AMENDED COUNTERCLAIM OF MECHANICS UNIVERSAL JOINT COMPANY, ETC.

The plaintiff, L. B. Achor, Receiver of The Manufacturers National Bank and Trust Company of Rockford, Illinois, for reply to the second amended counterclaim of the Mechanics Universal Joint Company, says:

1. The plaintiff admits all of the matters stated in Para-

graph I. thereof, except the conclusions of the defendant contained in the following words, "And by such actions represented to the public that it was a solvent, going banking institution and a safe place in which to deposit money," and says that as to said conclusions he neither admits nor denies the same, but calls for strict proof; and denies that during the whole of said period said bank was in fact insolvent.

2. The plaintiff denies each and every of the allegations in Paragraph II of said second amended counterclaim.

3. Plaintiff denies each and every of the allegations contained in Paragraph III of said second amended counterclaim.

4. Plaintiff denies each and every of the allegations contained in Paragraph IV. of said second amended counterclaim.

5. Plaintiff denies all of the matters and things contained in Paragraph V of said second amended counterclaim.

IN THE UNITED STATES DISTRICT COURT

Northern District of Illinois,

Western Division.

A. B. Culhane, Receiver of The Manufacturers National Bank and Trust Company of Rockford, Illinois, successor to L. B. Achor, Receiver, etc.,

Plaintiff,

vs.

Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom,

Defendants.

In Equity, No. 348.

State of Illinois, } ss.
County of Stephenson. }

I, Henry W. Freeman, Clerk of the United States District Court, Northern District of Illinois, do hereby certify that the above and foregoing, is a full, true and correct copy of the Second Amended Counterclaim filed by the defendant

Mechanics Universal Joint Company, a corporation in the Office of the Clerk of the United States District Court for the Northern District of Illinois, Western Division on April 29, 1932; that the original remains among the files in said cause in said Office, and that the above and foregoing is a full, true and correct copy of a Reply to said Second Amended Counterclaim filed in said Division and District, by the plaintiff in said cause in said Office on May 4, 1932, and that the original remains in the files of said Office in said cause.

In Testimony Whereof, I have hereunto set my hand and caused the Seal of said Court to be affixed at Freeport, Illinois, this 10th day of April, A. D. 1935.

HENRY W. FREEMAN,
(Seal) *Clerk of said Court.*
By W. N. TICE,
Deputy.

Endorsed: Filed April 20, 1935. Frederick G. Campbell, Clerk.

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, began and held in the United States Court Room in the City of Chicago, in said Seventh Circuit, on the first day of October, 1935, of the October Term, in the year of our Lord one thousand nine hundred and thirty-five, and of our Independence the one hundred and sixtieth.

And afterwards, to-wit: On the seventeenth day of October, 1935, the following further proceedings were had and entered of record, to-wit:

Thursday, October 17, 1935.

Court met pursuant to adjournment.

Before:

Hon. William M. Sparks, Circuit Judge.
Hon. Samuel Alschuler, Circuit Judge.
Hon. Charles G. Briggle, District Judge.

Mechanics Universal Joint Company, *et al.*,
5384 *vs.*
A. B. Culhane, Receiver, etc.

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division.

Now this day come the parties by their counsel and this cause now comes on to be heard on the printed record and briefs of counsel and on oral arguments by Mr. S. R. Kenworthy, Counsel for Appellants, and by Mr. Roy F. Hall, Counsel for Appellee, and the court having heard the same takes this matter under advisement.

And afterwards, to-wit: On the fifteenth day of November, 1935, there was filed in the office of the Clerk of this court, the Opinion of the court, which said Opinion is in the words and figures following, to-wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

No. 5384. October Term and Session, 1935.

MECHANICS UNIVERSAL JOINT COMPANY, a Corporation, and ERIC S. EKSTROM,

Appellants,

vs.

A. B. CULHANE, Receiver of the Manufacturers National Bank and Trust Company of Rockford, Illinois, successor to L. B. ACHOR, former Receiver, and all others similarly situated,

Appellees.

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division.

November 15, 1935.

Before SPARKS and ALSCHULER, *Circuit Judges*, and BRIGGLE, *District Judge*.

SPARKS, *Circuit Judge*. This suit in equity was originally instituted against appellants by appellee's predecessor as receiver of the Manufacturers National Bank and Trust Company of Rockford, Illinois. By it, appellee sought to recover the sum of $42,716.12 paid by said Manufacturers Bank to the Third National Bank as and for a deposit in the Third National to the appellant company's credit. The money was paid on a check of appellant company drawn upon the Manufacturers Bank. The check was drawn the day before the Manufacturers Bank finally closed its doors, and was paid through the clearing house of Rockford on the day that bank was finally closed. Appellant filed its cross complaint by which it sought to recover the balance of its deposit in the sum of $20,034.12, which appellant charges was fraudulently received by the bank and its officers and agents at times when they all knew the bank was insolvent.

The court found the facts specially and rendered its conclusions of law thereon. In addition to the proper jurisdictional facts the court found substantially as follows:

The Manufacturers Bank closed its doors at one thirty P. M., June 13, 1931, its regular time of closing on Saturdays, and never thereafter opened its doors. On June 16, 1931, the Comptroller of the Currency certified that the bank was insolvent and appointed Achor, its former vice-president, as receiver. The Mechanics Company, appellant, is an Illinois corporation of which, for some time prior to and at all times since June 1, 1931, appellant Ekstrom was the president and active manager, spending all of his business time in connection therewith. For two years prior to June 16, 1931, he had been a director of the Manufacturers Bank. He was not an employee of the bank and spent no time and performed no duties there or in connection with its business, other than as director and as a member of the board's loan committee.

Between May 6, 1931, and June 6, 1931, the Mechanics Company had deposited with the Manufacturers Bank various sums and on various dates in the total amount of $150,872.70, and its checking account balance on June 12, 1931, was $65,224.30. It also had a savings account in the same bank on that date of $10,000. When the bank closed its doors appellant Ekstrom had a personal checking account therein of $1,413.88, and a savings account of $736.89.

On the date the bank closed it was, and for some time prior thereto had been, on a special list of the Comptroller of the Currency for examination every ninety days or oftener, of which fact Ekstrom had knowledge. At about eleven o'clock A. M., June 12, 1931, a meeting of the board of directors of the Manufacturers Bank, called by its president at the request of Mr. Baty, a national bank examiner, was held at the bank at which appellant Ekstrom was present and participated. He there learned from Baty that the Security National Bank of Rockford was unable to continue business and had made a tentative contract with the Swedish American National Bank of Rockford, by which the latter was to take over the former, subject to the appraisal of the former's assets by the latter, and if that appraisal were satisfactory the transfer would be made on Monday morning, June 15, 1931. Ekstrom was also there informed by Baty that it was the latter's opinion that the cash position of the Manufacturers Bank was extremely low and could not stand a run of one business day, and that he thought a run on all the banks would occur on Monday

whether or not the Security Bank was taken over by the Swedish Bank. It was there stated by Baty in the presence of Ekstrom that in view of the continued drain of deposits which the Manufacturers Bank had and was still having, it would be for the best interests of the bank to try to arrange to take the bank's deposit liability under cover. Whereupon the board of directors, with Ekstrom's consent, gave Baty written authority to talk over the affairs of the bank with some other Rockford bank with a view to having the latter take it over. At that meeting Ekstrom knew of the contents of the Comptroller's report of an examination of their bank on December 1; 1930, and he was fully acquainted with the Comptroller's letter of January 8, 1931, which accompanied the report. In that report and letter the Comptroller gave it as his opinion that the bank had loans and discounts which were slow assets in the sum of $1,014,167.09; tthat there were doubtful loans and discounts to the extent of $228,173.34; and that there were losses since the last examination in the sum of $138,789.96. On June 12, 1931, Ekstrom knew that the Comptroller had requested the bank to send him a letter every thirty days indicating its condition.

The bank was examined about April 27, 1931, and a report of it, together with a letter from the Comptroller, was sent to and received by the bank on or about May 28, 1931, and both were examined by Ekstrom. The report disclosed that there were slow assets in the sum of $1,145,201.15, and total doubtful assets of $430,821.34, and losses within the last three months of $19,795.50. It further disclosed that the directors had direct and indirect liabilities in the bank of $559,620.86. The letter referred to the condition of the bank as unsatisfactory and dangerously threatening its insolvency and it demanded the directors' immediate attention.

At the board meeting of June 12, a committee was appointed by the directors to act for the bank in all matters relative to taking over its affairs by any other bank. Ekstrom left that meeting about noon, and shortly thereafter executed, as president of appellant, the check which is now in controversy, and caused it to be sent by mail late in the afternoon of that day to the Third National Bank of Rockford. Accompanying it was a deposit slip directing its deposit in appellant's general account at the Third National Bank. Theretofore, appellant had never transferred money from its checking account in the Manufacturers Bank to its general checking account in the Third National Bank. The check was received by the Third

National on Saturday morning, June 13, and was included in the clearings of that day. It was paid by Manufacturers Bank on the same morning, which was the last day that bank was open, and the amount thus paid was deposited as ordered by appellant with the Third National.

About the time Ekstrom signed this check he also signed, as president, another check on behalf of appellant for $35,000, drawn by it against its general checking account in the Securities National Bank of Rockford, and it was mailed to the Rockford National Bank.

On Saturday night, June 13, a committee from the Third National, and a like committee from the Manufacturers Bank spent the entire night examining the assets of the latter bank. That fact was known by Ekstrom and he was present at the time, and he learned at the conclusion of their examination that it would take $750,000 in cash to effect a merger with the Third National. He also knew that that amount substantially corresponded to the capital, surplus, and the undivided profits of the Manufacturers Bank.

On Sunday, June 14, the Manufacturers Bank was insolvent, and by resolution of the board its affairs were placed in the hands of the Comptroller. There had been no appreciable change in its condition from June 12, 1931. From June 6 to June 13, 1931, inclusive of both days, the bank remained open and transacted its usual and ordinary banking business, accepting deposits and paying all checks drawn upon and presented to it, and during that time it was able to and did meet all its obligations as they matured. The court found that prior to the payment of the controverted check, the bank had committed no act of bankruptcy.

The court therefore concluded that the equities of the cause were with appellee, and that the cross complaint was without equity.[1] It accordingly dismissed the cross complaint, and awarded a decree for appellee against both appellants in the sum of $25,216.45, with interest and costs. That amount represented the full amount of appellee's claim less four dividends which had theretofore been ordered.

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1. CONCLUSIONS OF LAW.

"(1) The equities are with the plaintiff on the original bill.

"(2) The counter-claim is without equity and should be dismissed.

"(3) The plaintiff is entitled to a decree as prayed for in the bill.

"(4) In view of the knowledge possessed by the defendant, Eric S. Ekstrom, which he had acquired because of his confidential connection with the Manufacturers National Bank, when he drew the check of the defendant corporation for $42,761.12, it would be inequitable to allow the defendant

Appellants contend that the bill sought a recovery under section 5242 Revised Statutes (12U.S.C.A. section 91) which provides that there can be no recovery under that section unless the payment in question was made after the bank had committed an act of insolvency, or in contemplation thereof with a view to prevent the application of its assets in the manner prescribed by the Banking Act or with a view to the preference of one creditor to another. They insist, therefore, that the decree was not justified because (1) the bank had committed no act of insolvency before the payment of the check, (2) there was no proof of insolvency, (3) none of the officers of the bank believed that the bank was insolvent when

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corporation to obtain the advantage which it would thereby obtain over other depositors by virtue of the knowledge which its President had acquired as aforesaid.

"(5) It is the law that by virtue of the facts above mentioned the defendant, Eric S. Ekstrom, in causing said check to be drawn and paid, said Eric S. Ekstrom being a Director of the Manufacturers * * * and occupying a confidential relation toward it when he drew said check for $42,761.12, and thereby caused a transfer of funds belonging to the defendant corporation from the Manufacturers Bank to the Third National Bank, then and there intended to prefer the defendant corporation over the other creditors of said bank and intended to prevent the assets of said bank from being distributed ratably, and that his act in so doing was in violation of Section 5242 of the Revised Statutes of the United States, and was an act done in contemplation of insolvency of said Manufacturers Bank.

"(6) In a court of equity when the defendant, Eric S. Ekstrom, on behalf of the defendant corporation signed said check and thereby caused a withdrawal of said funds he acted for said corporation, and said corporation was chargeable with what knowledge the defendant Ekstrom then possessed.

"(7) Eric S. Ekstrom, having personally signed said check and thereby caused a withdrawal of said funds, and said act being for the benefit of the defendant corporation, both said defendant corporation and said Eric S. Ekstrom became liable in a court of equity to return to the Receiver of said Bank, the funds so withdrawn.

"(8) The directors of the bank knew its condition to be as found above and placed its officers in position to pay the check in question, drawn by one possessing knowledge of the bank's condition which he acquired because he held a confidential position in the bank and thereby learned facts not known to depositors generally. The payment of the check in fact created a preference and it must be held in law the parties intended the result of their acts.

"(9) The funds of the Mechanics Universal Joint Company were not transferred from its checking account in the Manufacturers National Bank and Trust Company in the usual and ordinary course of business.

"(10) The Mechanics Universal Joint Company, through its president, Eric S. Ekstrom, who was also a director of the Manufacturers National Bank and Trust Company, knew at the time the several deposits were made by it in the Manufacturers National Bank and Trust Company, that the Manufacturers National Bank and Trust Company was in a precarious and embarrassing financial condition and hence the depositor was not an innocent depositor and no fraud was practised upon such depositor. The counter-claim cannot be sustained."

the check was paid, and (4) none of the officers, at the time the check was paid, contemplated an act of insolvency, or the closing of the bank. The court found that fact (1) was true, but, even so, that fact of itself would not invalidate the decree. The court also found that the bank was insolvent on Sunday, June 14, and that there had been no appreciable change in its condition since June 12, the day of the directors' meeting. That finding we think was supported by material evidence and we can not disturb it. It may be true that none of the officers thought it was insolvent, or contemplated an act of insolvency or the closing of the bank, but in view of the condition disclosed, and the reports and correspondence from the Comptroller, together with the advice and suggestions of the examiner, we are convinced that the officers and directors should have known that the bank was insolvent and that closing was imminent. We think the court's findings and conclusions, in so far as they bear on this question, were amply supported by the evidence.

But the bill did not wholly rely upon section 91 for a recovery. It also pleaded a charge of common law negligence. That this is a proper practice can not be doubted. *Bowerman* v. *Hamner,* 250 U. S. 504.

It is contended, however, by appellants that the evidence conclusively shows that the check was drawn and signed before the bank directors' meeting on June 12; that Ekstrom did not order the check drawn nor divulge to the Mechanics Company or its agents any information received by him at the directors' meeting; and that neither the drawing of the check nor the money was caused by any information received from Ekstrom. Without conceding it, we shall treat the language of these contentions as tantamount to saying there was no substantial evidence to support the court's findings in these respects. It would serve no good purpose to set forth the evidence in detail. A perusal of the entire record convinces us that with respect to both appellants, the court's findings are supported by direct material evidence as well as by logical and legitimate inferences. It is further contended, however, that the court will not indulge in the presumption that Ekstrom divulged to others any information received from the bank directors' meeting. That may be conceded, but the court's findings and conclusions are not based on that presumption. That Ekstrom signed the check as president of the company after he left the bank directors' meeting is supported by material evidence, and he neither affirmed nor de-

nied it. He was an officer and agent of the Mechanics Company, as well as a director of the bank, hence it was not necessary for him to divulge any information to accomplish the withdrawal of the funds. He, whose signature gave vitality to the check, already had the information when he signed it. That act was his company's act, and his information at that time was his company's information. These circumstances, we think, constitute a sufficient basis for the court's conclusions Nos. 4, 5, 6 and 7, 8, and 9.

We are further of the opinion that the court was warranted in dismissing the appellant company's counter-claim on the theory that no fraud was practiced upon it by the bank and that it was not an innocent depositor by reason of the acts of its president.

Error is assigned upon the court's admission of four exhibits offered by appellee. Two of these were copies of the bank examiner's reports on the respective dates of December 1, 1930, and May 29, 1931; one was a letter from the Comptroller to the bank, bearing date of February 24, 1931; and the other was a letter from the Comptroller to the bank, bearing date of May 29, 1931. We find no error in the admission of any of these exhibits.

Decree

AFFIRMED.

Endorsed: Filed November 15, 1935. Frederick G. Campbell, Clerk.

And on the same day, to-wit: On the fifteenth day of November, 1935, the following further proceedings were had and entered of record, to-wit:

Friday, November 15, 1935.

Court met pursuant to adjournment.

Before:

Hon. William M. Sparks, Circuit Judge.
Hon. Samuel Alschuler, Circuit Judge.
Hon. Charles G. Briggle, District Judge.

Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom,
5384 *vs.*
A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company of Rockford, Illinois, Successor to L. B. Achor, former Receiver, and all others similarly situated.

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Northern District of Illinois, Western Division, and was argued by counsel.

On consideration whereof: It is now here ordered, adjudged and decreed by this court that the Decree of the said District Court in this cause be, and the same is hereby affirmed with costs and interest from the date of the Decree of the said District Court until paid, at the same rate that similar decrees bear in the courts of the State of Illinois.

And afterwards, to wit: On the fourth day of December, 1935, there was filed in the office of the clerk of this Court, a petition for a rehearing, which said petition for a rehearing is not copied here.

And afterwards, to-wit: On the thirty-first day of December, 1935, the following further proceedings were had and entered of record, to-wit:

Tuesday, December 31, 1935.

Court met pursuant to adjournment.

Before:

Hon. William M. Sparks, Circuit Judge.
Hon. Samuel Alschuler, Circuit Judge.
Hon. Samuel G. Briggle, District Judge.

Mechanics Universal Joint Company, *et al.*,
5384 *vs.*
A. B. Culhane, Receiver, etc.

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division.

It is ordered by the court that the Petition for a Rehearing in this cause be, and the same is hereby denied.

And afterwards, to-wit: On the sixth day of January, 1936, the following further proceedings were had and entered of record, to-wit:

Monday, January 6, 1936.

Court met pursuant to adjournment.

Before:

Hon. William M. Sparks, Circuit Judge.

Mechanics Universal Joint Company, *et al.*,
5384 *vs.*
A. B. Culhane, Receiver, etc.

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division.

Now this day comes counsel for appellant and presents a motion for a stay of Mandate of this court, pending a petition to the Supreme Court of the United States for a writ of certiorari.

On Consideration Whereof: It is now here ordered that the Mandate in this cause be, and the same is hereby stayed until the further order of this court.

It is further ordered that counsel for appellant proceed with diligence and promptly file the petition for a writ of certiorari in the Supreme Court of the United States, and forthwith file in this court proof of the filing of said petition in said court.

And afterwards, to-wit: On the twenty-fourth day of January, 1936, there was filed in the office of the Clerk of this court, a Praecipe for Record and Stipulation appended thereto, which said Praecipe is in the words and figures following, to-wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

October Term, A. D. 1935.

No. 5384.

Mechanics Universal Joint Company, a Corporation, and Eric S. Ekstrom,

Appellants,

vs.

A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company of Rockford, Illinois, successor to L. B. Achor, former Receiver, and all others similarly situated,

Appellee.

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division.
Honorable
Charles E. Woodward,
Judge Presiding.

To the Clerk of the United States Circuit Court of Appeals, for the Seventh Circuit:

The Clerk will please prepare a transcript on Application for Certiorari to the Supreme Court of the United States in the above entitled cause, including therein the following:

1. The printed record in the Court of Appeals.

2. Minute entry showing argument of cause.
3. The opinion of the Circuit Court of Appeals affirming the District Court.
4. Decree of Affirmance.
5. Order denying petition for Rehearing and directing mandate to issue.
6. Order Suspending issuance of mandate.
7. Certified copy of Second Amended Counterclaim and Reply to Second Amended Counterclaim.
8. Praecipe and Stipulation appended thereto.

Respectfully,

MECHANICS UNIVERSAL JOINT COMPANY,
Appellant,
By G. A. SHALLBERG,
G. A. Shallberg
S. R. KENWORTHY,
S. R. Kenworthy
Its Attorneys.

and ERIC S. EKSTROM, *Appellant,*
By SHELBY L. LARGE,
Shelby L. Large
His Attorney.

Service accepted and acknowledged this 9th day of January, A. D. 1936.

ROY F. HALL,
Attorney for Appellee.

It is stipulated and agreed by Counsel for the respective parties that in printing the Record to be sent the Supreme Court of the United States, only so much of the original exhibits sent up to the U. S. Circuit Court of Appeals, 7th Circuit, from the U. S. District Court for the Northern District, Western Division, shall be printed as follows—Of Plaintiffs' Exhibit 22, the letter of the Comptroller of the Currency dated Jan. 8, 1931; page one which is entitled "Examiners report of the Condition of the Manufacturers Bank and Trust Co., Rockford, Winnebago County, Illinois; that part of page 11, including and all underneath the words "Recapitulation—Losses, etc." All of Plaintiffs' Exhibit 24; so much of Plaintiffs' Exhibit 25 as follows:—page one entitled "Examiners Report of the Condition of the Manufacturers Nat'l. Bank and Trust Co., Rockford, Winnebago County,

Illinois." Also all of page eleven which includes the words "Recapitulation—Losses, etc." and all underneath the same.

S. R. KENWORTHY,
Atty. for Mechanics Universal Joint Co.

SHELBY L. LARGE,
Atty. for Eric Ekstrom.

ROY F. HALL,
Attorney for A. B. Culhane, Receiver.

Endorsed: Filed January 24, 1936. Frederick G. Campbell, Clerk.

PLAINTIFF'S EXHIBIT 22.

TREASURY DEPARTMENT

Washington

January 8, 1931.

Comptroller of the Currency

Address Reply to
"Comptroller of the Currency"
Board of Directors,
Manufacturers National Bank & Trust Co.,
Rockford, Illinois.

Gentlemen:

While the report of an examination of your bank completed December 4, a copy of which was furnished you, shows a continued unsatisfactory condition, the Chief Examiner advised under date of January 3, 1931, that President Floberg informed him that the following losses and undesirable assets were eliminated through an affiliated company as stated below:

Loss Items	$160,877.12
Doubtful Items	237,042.84
Total	$397,919.96

Settlement for these items were as follows:

Cash	98,000.00
Note—Winnebago Securities Corp., one year	50,000.00
Note—Winnebago Securities Corp, two years	125,000.00
Note—Winnebago Securities Corp., three years	124,919.96
Total	$397,919.96

It is, of course, understood that the notes of the Corporation are interest bearing obligations and that they are secured by the assets removed.

The removal of the assets referred to is commendable and materially improves the bank's condition. However, there is still much to be done in order to place the assets in satisfactory condition and it is urged that all criticised assets receive your most constant and vigorous attention with a view to collections, reductions or other satisfactory adjustments. In this connection the Chief Examiner advises that it was agreed to obtain the services of a competent executive vice president to assist in correcting objectionable matters and improving the loans, also that the payment of dividends would be discontinued for the present. Special attention should be given to the liquidation of the assets securing the notes of the Winnebago Securities Corp.

It is noted that, although a substantial reduction has been effected in the obligation of the Rolling Green Real Estate Subdivision since the time of the previous examination, it is still greatly in excess of the legal loan limit of your bank. This line, which involves Directors Floberg, Olson and Esktrom, should be brought within lawful requirements without further delay.

Please review the report of examination in conjunction with this letter at the time of your board meetings in February and March and immediately after each meeting advise this office the progress made in collecting, reducing or otherwise satisfactorily adjusting the slow and doubtful loans, giving names and amounts; whether the excessive loan mentioned above has been reduced to the legal limit; and state the reductions effected in the large lines of credit and obligations of the various directors, also giving the names and amounts, furnishing a copy of your communications to Chief Examiner

A. P. Leyburn, 164 W. Jackson Boulevard, Room 1209, Chicago, Illinois.

Very truly yours,
JOHN L. PROCTOR,
John L. Proctor,
Deputy Comptroller.

Examiner's Report of the Condition of

The Manufacturers National Bank & Trust Company, (City) Rockford, (County) Winnebago, (State) Illinois Examination commenced at 3 o'clock P. M., on December 1, 1930 Examination closed at 3 o'clock P. M., on December 4, 1930.

Form 1425
TREASURY DEPARTMENT
Comptroller of the Currency—Examining

Examiner	34 hrs.
Assistants	100 hrs.

State whether special or regular examination Special

A copy of this report of examination is furnished to the Board of Directors of the examined bank for their information and consideration. The information contained therein is based upon the records and books of the bank and upon statements made to the Examiner by officers and employees of the bank, and on data secured from other sources believed to be reliable, and presumed by the Examiner to be correct.

Much of the information in regard to the assets of the bank is of such a character as to make it necessary for the Examiner to rely upon the good faith and assurances of his informants, and while the Examiner regards the statements so accepted by him as correct, he is, necessarily, not in a position to guarantee the accuracy of such part of the information as may not have been obtained at first hand.

Name of Examiner, H. S. French No. of Bank, 3952
Fed. Res. Dist. No., 7
A. R. Floberg, President. H. A. Conklin, Cashier.

Resources	Amount
1. Loans and Discounts,	2,852,195.09
2. Overdrafts,	1,209.62
3. Interest earned not collected,	

4.	Customers' liability account of "Acceptances,"		
5.	U. S. Bonds to secure circulation,		200,000.00
6.	U. S. Bonds and certificates pledged,		297,960.00
7.	U. S. Bonds and certificates not pledged,		116.87
8.	Premium on U. S. Bonds,		4,224.11
9.	Bonds, Securities, etc. (pledged and unpledged),		633,448.79
10.	Federal Reserve Bank Stock,		21,000.00
11.	Banking House,	544,410.50	
	Furniture and fixtures,	60,775.74	605,186.24
12.	Other Real Estate Owned,		21,660.01
13.	Due from Federal Reserve Bank,		157,144.35
14.	Due from Federal Reserve Bank Transit Account,		61,716.98
15.	Due from Trust Companies, Banks, and Bankers,		134,776.19
16.	Exchanges for Clearing House,		60,954.91
17.	Checks on other Banks in same place,		
18.	Cash,		61,155.38
19.	Cash Items,		7,394.18
20.	Cash Short,		
21.	5% Red'n Fund with Treas. U. S.,		10,000.00
22.	Other Funds with Treasurer U. S.,		
23.	Other Assets (describe),		
	A. Coupons for collection		12,928.02
	Total,		5,143,071.24

	Liabilities		Amount
1.	Capital Stock Paid in,		500,000.00
2.	Surplus Fund,		200,000.00
3.	All other Undivided Profits,	98,463.13	
	Less expenses, etc.	36,770.86	61,692.27
4.	Reserves for Dividends, Contingencies, etc.,		11,000.00
5.	Reserves for Interest, Taxes, and other expenses accrued and unpaid,		13,411.79
6.	Interest collected, not earned,		
7.	Due to Federal Reserve Bank,		
8.	Due to Trust Companies, Banks, and Bankers,		4,879.80
9.	Certified Checks,		3,127.35
10.	Cashier's Checks Outstanding,		9,897.49
11.	Dividends Unpaid,		644.27

12.	Demand Deposits:		
	Ind. Dep. subject to check, (Including those subject to notice of less than 30 days.)	1,440,623.01	
	Cts. of Dep. due in 30 days or less,	257,487.38	1,698,110.39
13.	Time Deposits:		
	A. Savings Deposits (due after, or subject to notice of, 30 or more days),	2,357,353.58	
	1. Evidenced by pass book,		
	2. Evidenced by Certificates of Deposits,		
	B. Other Deposits subject to 30 or more days' notice,	56,152.47	
	C. Postal Savings,	26,801.83	2,440,307.88
14.	United States Deposits, (Including U. S. Disbursing Officers.)		
15.	Circulation rec'd, Less on hand and returned.	200,000.00	200,000.00
16.	Bonds Borrowed,		
17.	Bills Payable with Federal Reserve Bank,		
18.	Other Bills Payable,		
19.	Notes and Bills Rediscounted with Federal Reserve Bank,		
20.	Other Notes and Bills rediscounted,		
21.	Bills of exchange or Drafts indorsed, guaranteed by this bank, and not otherwise shown,		
22.	Accepted Bills of exchange payable abroad,		
23.	Cash Letters of Credit and Travelers' Checks Outstanding,		
24.	Acceptances Executed to Furnish Dollar Exchange,		
25.	Acceptances Executed for Customers,		
26.	Time Drafts Issued,		
27.	Cash Over,		
28.	Other Liabilities (describe),		
	Total,		5,143,071.24

Contingent Liabilities

Unused letters of credit outstanding, $.....

Future contracts to buy and sell exchange, $.....

12/11/30

Recapitulation—Losses, Etc.

Resources	Slow	Doubtful (loss probable, but not estimated)	Estimated losses
All loans and discounts,	1,014,167.09	228,173.34	138,789.96
Overdrafts,			
Premium on U. S. Bonds,	275.00	76,800.00	
Bonds, securities, etc.,)			
Banking house,)			
Furniture and fixtures,)		150,000.00	
Other real estate,	21,660.01		
Cash Items,			
Shortages,			
Judgments,			22,037.16
Unpaid Bills,			
Est. Deprec. Bd. a/c		5,132.30	2,000.00
Total,	1,036,102.10	462,105.64	162,877.12

Surplus, Undivided Profits, Etc.

Surplus fund,	$200,000.00
Net undivided profits,	61,692.27
All reserve accounts,	24,411.79
Total,	$286,104.06

Were estimated losses charged off during examination? To be eliminated through sale or charge off.

List items requiring attention and note any corrections made or promised during examination.

Criticised Assets.

48% of Bills Receivable subject to criticism. Further heavy losses inevitable.

Directors Borrowing.

Still borrowing for themselves and their companies in excess of bank's invested capital.

Excess Loan.

H. S. FRENCH,
Examiner.
By ALFRED P. LEYBURN,
Chief Examiner.

I certify on honor that all of the schedules on this report of examination have been carefully added, and the reserve computed and found correct as stated on page 2.

EMMA L. CHRISTENSEN,
Chief Clerk.

S'B

To the Comptroller of the Currency,
Washington, D. C.

PLAINTIFF'S EXHIBIT 24.

TREASURY DEPARTMENT

Washington

May 28, 1931.

Comptroller of the Currency

Address Reply to
"Comptroller of the Currency"
Board of Directors,
Manufacturers National Bank & Trust Co.,
Rockford, Illinois.

Gentlemen:

The report of examination of your bank completed May 1, copy of which was furnished you, has been received.

While it is believed you are cognizant of the extremely unsatisfactory condition of the assets and are trying to work the bank out of its present dangerous situation, conditions are such that little or no progress can be made and the bank is faced with potential losses that threaten its solvency. If you and the active management can be more vigorous in your efforts to liquidate or adjust with adequate security the criticised assets, it is urged that you do so, as only through a successful liquidating and securing program will the desired results be obtained. In connection with the obligation of the Winnebago Securities Corporation, $297,919.96, representing the balance due on the purchase price of $397,919.96 of losses and doubtful assets, $100,000 having been paid in cash, it is observed that $150,000 thereof is classed doubtful. Even though the shareholders contributed $100,000 to capitalize the company and to make the initial cash payment, the mere changing of the form of losses and doubtful assets to notes

of the company with no intention of liquidating them except through salvage from the eliminated assets, which the examiner states will not be very large, is not a satisfactory manner in which to rehabilitate the bank and if the notes of the company are not paid promptly when due it will be necessary for the examiner to estimate losses on the entire obligation, which would have to be charged off or provided for through an assessment against the stock.

It is observed that losses of $19,795.50 are to be charged off or sold to the securities company prior to June 15. In view of the classification of the company's present obligation, it is in no condition to purchase any further worthless assets and the losses should be promptly charged off against the profits of the bank. Any available cash in possession of the Winnebago Securities Company should be used to liquidate its present indebtedness to the bank.

Please also note the heavy borrowings of certain of the directors and their concerns, approximately 31% of the total loans and discounts, and to the examiner's statement that some of their lines are the weakest in the bank and heavy losses appear inevitable. This is a condition which should not exist and in fairness to the bank all criticised lines of directors and their concerns should be given immediate attention with a view to collection, substantial reductions or placing in such condition that they are not subject to criticism. Definite results in this regard will be expected.

Please review the report of examination and this letter at each monthly board meeting and advise this office, over the individual signatures of the available directors, the progress being made in collecting, reducing and adjusting the past due paper and slow and doubtful assets, giving names and amounts, and the reduction effected in the borrowings of the directors and their concerns, stating in your first report what reduction has been obtained in the bank's liability for money borrowed and whether the losses of $19,795.50 have been charged off, forwarding copies of your communications to Chief Examiner A. P. Leyburn, 164 West Jackson Boulevard, Room 1209, Chicago, Ill. and Examiner M. R. Baty, P. O. Box 527, Rock Island, Illinois.

Very truly yours,

JOHN L. PROCTOR,
John L. Proctor,
Deputy Comptroller.

PLAINTIFF'S EXHIBIT 25.

Examiner's Report of the Condition of

The Manufacturers National Bank & Trust Co.,
(City) Rockford, (County) Winnebago, (State) Illinois
Examination commenced at 3:10 o'clock P. M., on April 27, 1931. Examination closed at 5:30 o'clock P. M., on May 1, 1931 (Two days intervening)

Form 1425

TREASURY DEPARTMENT

Comptroller of the Currency—Examining

Examiner's	Hrs—30
Assistants'	" —90

State whether special or regular examination Regular

A copy of this report of examination is furnished to the Board of Directors of the examined bank for their information and consideration. The information contained therein is based upon the records and books of the bank and upon statements made to the Examiner by officers and employees of the bank, and on data secured from other sources believed to be reliable, and presumed by the Examiner to be correct.

Much of the information in regard to the assets of the bank is of such a character as to make it necessary for the Examiner to rely upon the good faith and assurances of his informants, and while the Examiner regards the statements so accepted by him as correct, he is, necessarily, not in a position to guarantee the accuracy of such part of the information as may not have been obtained at first hand.

Name of Examiner, M. R. Baty No. of Bank, 3952
Fed. Res. Dist. No., 7

A. R. Floberg, President. H. A. Conklin, Cashier.

Resources	Amount
1. Loans and Discounts,	2,503,335.73
2. Overdrafts,	1,534.30
3. Interest earned not collected,	
4. Customers' liability account of "Acceptances,"	
5. U. S. Bonds to secure circulation,	200,000.00
6. U. S. Bonds and certificates pledged,	334,960.00
7. U. S. Bonds and certificates not pledged,	1,684.84
8. Premium on U. S. Bonds,	5,117.50
9. Bonds, Securities, etc. (pledged and unpledged),	419,338.87

10.	Federal Reserve Bank Stock,		21,000.00
11.	Banking House,	538,000.00	
	Furniture and fixtures.	54,197.21	592,197.21
12.	Other Real Estate Owned,		21,660.01
13.	Due from Federal Reserve Bank,		150,162.06
14.	Due from Federal Reserve Bank Transit Account,		15,948.16
15.	Due from Trust Companies, Banks, and Bankers,		132,939.30
16.	Exchanges for Clearing House,		30,450.10
17.	Checks on other Banks in same place,		
18.	Cash,		96,454.13
19.	Cash Items,		1,412.72
20.	Cash Short,		131.64
21.	5% Red'n Fund with Treas. U. S.,		10,000.00
22.	Other Funds with Treasurer U. S.,		
23.	Other Assets (describe),		
	Coupons for collection		7,530.25
	Total,		4,545,856.82

	Liabilities		Amount
1.	Capital Stock Paid in,		500,000.00
2.	Surplus Fund,		200,000.00
3.	All other Undivided Profits,	88,334.46	
	Less expenses, etc.	10,236.02	78,098.44
4.	Reserves for Dividends, Contingencies, etc.,		3,000.00
5.	Reserves for Interest, Taxes, and other expenses accrued and unpaid,		10,162.50
6.	Interest collected, not earned,		
7.	Due to Federal Reserve Bank,		
8.	Due to Trust Companies, Banks, and Bankers,		2,283.71
9.	Certified Checks,		1,779.63
10.	Cashier's Checks Outstanding,		19,670.19
11.	Dividends Unpaid,		393.02
12.	Demand Deposits:		
	Ind. Dep. subject to check, (Including those subject to notice of less than 30 days.)	1,089,852.35	
	Ctfs. of Dep. due in 30 days or less,	236,713.32	1,326,565.67

13.	Time Deposits:		
	A. Savings Deposits (due after, or subject to notice of, 30 or more days),	1,976,142.18	
	1. Evidenced by pass book,		
	2. Evidenced by Certificates of Deposits,		
	B. Other Deposits subject to 30 or more days' notice,	39,027.39	2,015,169.57
	C. Postal Savings,		
14.	United States Deposits, (Including U. S. Disbursing Officers.)		
15.	Circulation rec'd, Less on hand and returned.	200,000.00	200,000.00
16.	Bonds Borrowed,		
17.	Bills Payable with Federal Reserve Bank,		
18.	Other Bills Payable,		
19.	Notes and Bills Rediscounted with Federal Reserve Bank,		188,734.09
20.	Other Notes and Bills rediscounted,		
21.	Bills of exchange or Drafts indorsed, guaranteed by this bank, and not otherwise shown,		
22.	Accepted Bills of exchange payable abroad,		
23.	Cash Letters of Credit and Travelers' Checks Outstanding,		
24.	Acceptances Executed to Furnish Dollar Exchange,		
25.	Acceptances Executed for Customers,		
26.	Time Drafts Issued,		
27.	Cash Over,		
28.	Other Liabilities (describe),		
	Total,		4,545,856.82

Contingent Liabilities

Unused letters of credit outstanding, $.....

Future contracts to buy and sell exchange, $.....

5-11-31

Recapitulation—Losses, Etc.

Resources		Slow	Doubtful (loss probable, but not estimated)	Estimated losses
All loans and discounts,		1,112,241.14	226,765.38	
Overdrafts,				
Premium on U. S. Bonds,				11,500.00
Bonds, securities, etc.,				
Deprec.			24,055.96	8,000.00
Banking house,)				
Furniture and fixtures,)			150,000.00	
Other real estate,		21,660.01		
Cash Items,				
Shortages,				
Judgments & Claims,		11,300.00	30,000.00	
Unpaid Bills,				
Transit Items				295.50
Check 8-25-30	52.00			
Interstate Coal Co.	240.00			
Realty Sureties	3.50			
Total,		1,145,201.15	430,821.34	19,795.50

Surplus, Undivided Profits, Etc.

Surplus fund,	$200,000.00
Net undivided profits,	78,098.44
All reserve accounts	13,162.50
Total,	$291,260.94

Were estimated losses charged off during examination? To be charged off or sold to Securities Co. prior to June 15.

List items requiring attention and note any correction made or promised during examination.

Loans & Discounts: Over 50% of all loans subject to criticism. Heavy losses in prospect.

Directors' Borrowings: Still in excess of invested capital. Their lines contain some of the weakest in the bank. Heavy losses in these lines inevitable.

Deposit Shrinkage: Deposits are down over $800 since last

examination: This will seriously curtail earnings for current year.

M. R. BATY,
Examiner.

By ALFRED P. LEYBURN,
Chief Examiner.

I certify on nonor that all of the schedules on this report of examination have been carefully added, and the reserve computed and found correct as stated on page 8.

EMMA L. CHRISTENSEN,
Chief Clerk.

HS
To the Comptroller of the Currency,
Washington, D. C.

And afterwards, to wit: On the fourteenth day of February, 1936, there was filed in the office of the Clerk of this Court a Motion for Substitution of Party Appellant and Consent to Entry of Order of Substitution, which said Motion for Substitution and Consent are in the words and figures following, to wit:

IN THE UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

No. 5384

Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom,
Appellants,
vs.
A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company of Rockford, Illinois, successor to L. B. Achor, former Receiver, and all others similarly situated,
Appellee.

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division.

Honorable Charles E. Woodward, Judge, Presiding.

MOTION FOR SUBSTITUTION OF PARTY.

Now Comes Grace M. Ekstrom, Administratrix of the Estate of Eric S. Ekstrom, deceased, and moves the Court that said Grace M. Ekstrom as Administratrix of the estate of Eric S. Ekstrom, Deceased, be substituted as a party in the foregoing proceeding in the place of Eric S. Ekstrom.

In Support of said motion there is attached hereto a copy of the Letters of Administration issued by the Clerk of the Probate Court of Winnebago County, Illinois, to Grace M. Ekstrom dated January 20, 1936 and duly certified by Charles F. Brown, Clerk of the Probate Court of Winnebago County under the seal of the Probate Court of said County. There is also attached hereto an affidavit of Shelby L. Large to the effect that Eric S. Ekstrom departed this life intestate on or about January 12, 1936.

Dated February 10th, 1936.

Respectfully submitted,
GRACE M. EKSTROM,
By SHELBY L. LARGE,
Her Attorney.

Letters of Administration.

State of Illinois } ss.
Winnebago County }

The People of the State of Illinois to all to whom these presents shall come, Greetings:

Know Ye, Whereas, Eric S. Ekstrom of the County of Winnebago and State of Illinois, died intestate, as it is said, on or about the 12th day of January, A. D. 1936, having at the time of his decease personal property which may be lost, destroyed or diminished in value, if speedy care be not taken of the same.

To the End, Therefore, that the said property may be collected and preserved for those who shall appear to have a legal right or interest therein, we do hereby appoint Grace M. Ekstrom of the County of Winnebago and State of Illinois, administratrix of all and singular the goods and chattels, rights and credits, which were of the said Eric S. Ekstrom at the time of his decease; with full power and authority to secure and collect the said property and debts, wheresoever the same may be found, and in general to do and perform all other acts which now are, or hereafter may be required of her by law.

Witness, Charles F. Brown, Clerk of the Probate Court, in and for the said County of Winnebago at his office in Rockford, this 20th day of January, A. D. 1936, and the Seal of said Court hereunto affixed.

CHARLES F. BROWN,
Clerk of the Probate Court.

(Seal)

By.....
Deputy.

State of Illinois, } ss.
County of Winnebago }

I, Charles F. Brown, Clerk of the Probate Court of Winnebago County (the same being a Court of Record, and having a seal and having a common Law jurisdiction in all probate matters) do hereby certify that I have compared the foregoing copy of the Record Letters of Administration in the Matter of the Estate of Eric S. Ekstrom, Deceased, with the Original Record thereof now remaining in my office, and have

found the same to be a correct transcript therefrom and of the whole of such Original Record.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at the City of Rockford, in said County this 6th day of February, A. D. 1936.

CHARLES F. BROWN,
(Seal) *Clerk.*

State of Illinois, }
Winnebago County, } ss.

SHELBY L. LARGE, being duly sworn, on oath states:

That he is an attorney at law and has heretofore appeared on behalf of Eric S. Ekstrom, one of the defendants named in a certain proceeding in equity Number 5384, entitled, "Mechanics Universal Joint Co., a corporation, and Eric S. Ekstrom as appellants, and A. B. Culhane, receiver, *et al.* as Appellee in an appeal from the District Court of the United States for the Northern District of Illinois, before the United States Circuit Court of Appeals for the Seventh Circuit; that he was well acquainted with Eric S. Ekstrom during his lifetime and that said Eric S. Ekstrom died intestate at Rockford, Illinois on January 12, 1936;

That later, on the 20th day of January, 1936, Grace M. Ekstrom was appointed by an order of the Probate Court of Winnebago County, Illinois, Administratrix of the said Estate of Eric S. Ekstrom, Deceased, and that proceedings in said estate are now pending in the Winnebago County Probate Court; that the said Grace M. Ekstrom has duly qualified as Administratrix of said Estate by giving a bond as required by the said Probate Court and is now acting as such Administratrix under the orders of the Probate Court of Winnebago County, Illinois.

SHELBY L. LARGE.

Subscribed and sworn to before me this 10 day of February, A. D., 1936.

HAZEL W. LUSTED,
(Seal) *Notary Public, Winnebago County, Illinois.*

Endorsed: Filed Feb. 14, 1936. Frederick G. Campbell, Clerk.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

No. 5384

Mechanics Universal Joint Company, a corporation, and Eric S. Ekstrom,
Appellants,
vs.
A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company of Rockford, Illinois, successor to L. B. Achor, formerly Receiver, and all others similarly situated,
Appellee.

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division.

Honorable
Charles E. Woodward,
Judge, Presiding.

CONSENT TO ENTRY OF AN ORDER SUBSTITUTING PARTIES.

Now Comes A. B. Culhane, as Receiver of the Manufacturers National Bank & Trust Company, of Rockford, Illinois, successor to L. B. Achor, formerly Receiver, by Roy F. Hall, his attorney, and consents that an order be entered by the Court, substituting Grace M. Ekstrom as Administratrix of the estate of Eric S. Ekstrom, Deceased, as a party in the foregoing proceeding in place of Eric S. Ekstrom, and that the said order may be entered without any other or further notice to the undersigned.

Dated at Rockford, Illinois, this 12th day of February, A. D., 1936.

A. B. CULHANE,
Receiver of the Manufacturers National Bank & Trust Company of Rockford, Illinois, successor to L. B. Achor, Formerly Receiver.
By ROY F. HALL,
His Attorney.

Endorsed: Filed Feb. 14, 1936. Frederick G. Campbell, Clerk.

Friday, February 14, 1936.

Court met pursuant to adjournment.

Before:

Hon. Evan A. Evans, Circuit Judge.

(Caption—No. 5384)

On motion of Grace M. Ekstrom, Administratrix of the Estate of Eric S. Ekstrom, Deceased, for substitution as party appellant in the place of Eric S. Ekstrom, supported by a certified copy of Letters of Administration of said Estate and by the affidavit of Shelby L. Large,

It is now here ordered that Grace M. Ekstrom, Administratrix of the Estate of Eric S. Ekstrom, Deceased, be, and she is hereby substituted as party appellant in this cause in the place of Eric S. Ekstrom, Deceased.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

October Term, A. D. 1935.

No. 5384

Mechanics Universal Joint Company, a Corporation, and Eric S. Ekstrom, *Appellants,*

vs.

A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company of Rockford, Illinois, successor to L. B. Achor, former Receiver, and all others similarly situated, *Appellee.*

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division.

Honorable Charles E. Woodward, Judge Presiding.

To the Clerk of the United States Circuit Court of Appeals, for the Seventh Circuit:

The Clerk will please prepare as an addition to the transcript on Application for Certiorari to the Supreme Court of the United States in the above entitled cause, the follow-

ing, which are in addition to the items mentioned in the praecipe heretofore filed herein:

1. Motion to substitute Grace M. Ekstrom Administratrix as Appellant in place of Eric S. Ekstrom, deceased.

2. Consent of Appellee for the substitution of parties in the above entitled cause.

3. Order granting the above entitled motion to substitute Grace M. Ekstrom Administratrix as Appellant in the place of Eric S. Ekstrom, deceased.

Respectfully,

MECHANICS UNIVERSAL JOINT COMPANY,
Appellant,
By G. A. SHALLBERG
G. A. Shallberg
S. R. KENWORTHY
S. R. Kenworthy
Its Attorneys.
and GRACE M. EKSTROM,
Appellant,
By SHELBY L. LARGE
Shelby L. Large
Her Attorney.

Endorsed: Filed Feb. 21, 1936. Frederick G. Campbell, Clerk.

UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

I, Frederick G. Campbell, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages, numbered from 221 to 260, inclusive, contain a true copy of the proceedings had and papers filed, made in accordance with the Praecipe filed on January 24, 1936 and the stipulation appended thereto (excepting Item 1 of said Praecipe, being the printed record) which said record is certified herewith under a separate certificate, and with the supplemental praecipe filed on February 21, 1936, in the case of

Mechanics Universal Joint Company, a corporation, and Grace M. Ekstrom, Administratrix of the Estate of Eric S. Ekstrom, Deceased,

Appellants,

vs.

A. B. Culhane, Receiver of the Manufacturers National Bank and Trust Company of Rockford, Illinois, Successor to L. B. Achor, Former Receiver, and all others similarly situated,

Appellee,

No. 5384, October Term, 1935, as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In Testimony Whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 26th day of February, A. D. 1936.

(Seal)

FREDERICK J. CAMPBELL,
Clerk of the United States Circuit Court of Appeals for the Seventh Circuit.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

5384

MECHANICS UNIVERSAL JOINT COMPANY

vs.

A. B. CULHANE, Receiver

Appeal from the District Court of the United States for the Northern District of Illinois, Western Division

I hereby certify that in the transcript of the record, prepared for the Supreme Court in the above entitled cause, in the last line on page 253 appears the figures $800. A close examination of the original, from which this is printed, reads "$800M", and the said certified record and copies of same should be corrected accordingly.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 13th day of April, A. D. 1936.

Frederick G. Campbell, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit. (Seal United States Circuit Court of Appeals, Seventh Circuit.)

SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed April 27, 1936

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.